United States Court of Appeals

for the Second Circuit

APPENDIX

74-1693

B

P/S

United States Court of Appeals

For the Second Circuit

Docket No. 74-1693

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff-Appellee,

—against—

TILNEY & COMPANY,
FREDERICK TILNEY,
Defendants-Appellants,

On Appeal From the United States District Court
for the Southern District of New York

DEFERRED JOINT APPENDIX

Volume II — Pages 375 to 744

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UNITED STATES COURT OF APPEALS
FILED
JUN 24 1975
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, : 67 Civil Action
File No. 4676

-against- :

TILNEY & COMPANY, : PETITION
FREDERICK TILNEY, IN OPPOSITION

Defendants. :

TO THE HONORABLE DAVID N. EDELSTEIN, JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK:

The Petition of FREDERICK TILNEY respectfully shows:

1. Your petitioner is the defendant in the above-named action and the residual beneficiary of all remaining assets in the receivership after all creditors are satisfied in full by cash distribution or by their applications to accept property or securities in lieu of cash and after reasonable costs of administration.

2. Joseph C. Hogan, as receiver, seeks to sell a certain parcel of land in Anchorage, Alaska, more fully described in Exhibit A attached, owned by the receivership for $32,000.00 under terms of payment which will complete the transaction in 150 days.

3. The net cost of this property to the receivership was $14,019.84 plus some incidental disbursements including taxes and presumably extensive time and expenses of the receivers and receiver's counsel.

4. According to the petition of the receiver, Joseph C. Hogan, an appraisal has been obtained from Dick Fischer & Associates of Anchorage, Alaska, indicating that the market value of the property is $45,000.00, said appraisal being dated December 4, 1962.

5. Attached hereto and made a part hereof and marked Exhibit A is a firm offer by the largest creditor of the estate on behalf of herself and her children to accept this property at the appraised value of $45,000.00 as partial satisfaction of the obligations of the petitioner to his said wife and children.

6. Your petitioner acquired the property jointly with three other persons in July of 1965 at a cost of $22,000.00. In 1968 the State of Alaska took by condemnation 1.4 acres from the original 10 acres, paying therefor $3,745.00 or at the rate of $2,675.00 per acre which figure when applied to the remaining 8.6 acres results in a valuation of $23,005.00. The relinquishment of the 1.4 acres to the State of Alaska for highway purposes greatly improved the value of the property in that it placed it adjacent to a main arterial highway without access thereto from the property but indirectly available to the property under proper planning concepts. In the intervening period, sewer facilities have been run through the property and public water has been brought to within a very reasonable distance of the property line.

7. The introduction of sewer facilities on the property by a private sewer company should be subject to collection of funds for an easement.

8. Petitioner further indicates that since cash or cash equivalent securities are available in the hands of the receivership to the extent of approximately $275,000.00 and further that claims of creditors requiring cash settlement after approval of certain applications amount to only $230,000.00 further liquidation of assets for cash is unnecessary and in this case obviously wasteful.

9. The cost of the property at foreclosure, $14,019.84, bore very small relationship to the value of the property which had been owned by

four owners including your petitioner, his wife and their former associates in Alaska -- R. R. Sassara and E. E. Sassara. Your petitioner had carried the mortgage and interest on the property for the benefit of the other three owners from the date of acquisition which added to his cost a sum in excess of $7,000.00. Originally transferred to the four owners in July, 1965, the property has greatly increased in value due to the following circumstances:

2.

(a) Improved highway connections.

(b) Sewer availability.

(c) Water availability.

(d) General growth in the Anchorage area.

(e) Growth of the State of Alaska generally has been stimulated by the tremendous oil strike on the North Slope. It has been estimated by some responsible authorities that the oil reserves of Alaska are sufficient to make the United States completely independent of outside purchase of petroleum. The initial funds received for the North Slops leases placed the State of Alaska in the enviable position of having $900,000,000 in cash in a period of the highest interest rates in the history of the United States. The interest on these funds will be sufficient to meet approximately half of the state's current operating budget. As a result, property values in Alaska will tend to rise due to the probable reduction of taxes at all levels of government. Huge royalties and subsequent purchase of leases will further swell the Treasury of Alaska.

WHEREFORE, your petitioner prays that the Court set aside the proposal of Receiver Joseph C. Hogan and accept in lieu thereof the proposal of Dorothy M. Tilney attached and marked Exhibit A.

Dated: Oyster Bay, New York
February 19, 1970

3.

FREDERICK TILNEY

377

SUNDOWN
Centre Island
Oyster Bay
New York

February 19, 1970

Joseph C. Hogan, Esq.
Receiver for Tilney & Company and Frederick Tilney
Hogan & Kelleher
29 Broadway
New York, N. Y. 10006

Dear Mr. Hogan:

At this time, I am prepared to make a specific offer to you as Receiver to acquire for $45,000.00 net of any charges and to assume any accumulated taxes on that certain 8.6 acre parcel described as "All of the real property situated in the Anchorage Recording District, Third District, State of Alaska, and more particularly described as follows:

> The North 460 feet of Government Lot Two (2), Section Seven (7), Township 12 North, Range 3 West, Seward Meridian, EXCEPT that portion previously conveyed as described in that certain Deed dated May 29, 1968, and recorded June 13, 1968, in the Anchorage Recording District in Book 366 at Page 470, and also SUBJECT TO that certain grant of Right of Way Easement dated May 29, 1968, and recorded June 13, 1968, in Book 162 at Page 315.

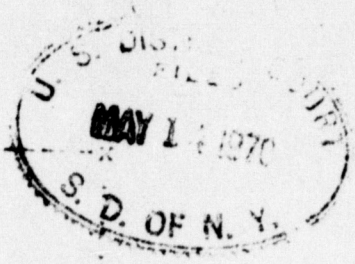
Said offer is subject to approval of the Court with the proceeds of $45,000.00 to be applied to debts due my children and myself by my said husband.

Very truly yours,

Dorothy M. Tilney

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



SECURITES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

TILNEY & COMPANY and
FREDERICK TILNEY,

Defendants.

67 Civ. 4676

Before:

HON. DAVID N. EDELSTEIN, District Judge.

New York, February 24, 1970,
10:50 a.m.

APPEARANCES:

Franklin Ormsten, Esq.,
Attorney, Securites and Exchange Commission

Wagner, Quillinan & Tennant, Esqs.,
Attorneys for Receivers,
Robert G. Benisch, Esq.,
of Counsel

Joseph C. Hogan, Esq.,
Receiver

ALSO PRESENT:

Mr. Frederick Tilney

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wsjb

with the broker and the offeror the purchase price was increased to $32,000 on terms which are set forth in the petition. These terms in effect would bring within 150 days from the acceptance of the offer the sum of $32,000 into the receivership estate.

As a part of this offer the receiver solicited an appraisal of the property and that appraisal is annexed to the petition and indicates that there is an appraised value of $45,000.

It is the position of the receiver that the sum of $45,000 does not represent the fair market value of the property based on his actual experience in trying to sell the property. In addition, the offered purchase price of $32,000 is approximately 75 per cent of the appraised valuation.

It is also the receivers position that this is non-productive property, vacant land up in Anchorage upon which real estate taxes are being paid by the receivership and which is bringing in no return whatsoever, that the sum of $32,000 added to the receivership estate would put the receivership estate in a much better cash position with respect to paying off creditors and would relieve it of the obligation of continued real property taxes.

Accordingly, based on all of the foregoing and

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the fact that there have been no other offers for this property, the petitioner, the receiver, is requesting that pursuant to 28 USC 2001(b) that he be granted the authority to enter into a private sale of this real property.

THE COURT: Do you wish to be heard?

MR. ORMSTEN: Your Honor, based on the receipt of papers in opposition I am aware of the fact that Mr. Tilney is, for reasons which are stated in the papers, opposed to this transaction.

I would respectfully ask the Court that the statement of my position may be deferred until I hear what the reasons are for the opposition.

MR. TILNEY: Your Honor, if it please the Court, counsel is unable to be here, he being in Family Court across the street.

THE COURT: What is the name of your counsel?

MR. TILNEY: Counsel is Saxe, Bacon & Bolan.

MR. BENISCH: Your Honor, I would indicate for the record an affidavit of Frederick Tilney was served on the receivers on Friday afternoon and I believe also on the Securities and Exchange Commission on the same day.

MR. TILNEY: That is correct.

Your Honor, the petition in opposition states

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MR. TILNEY: Your Honor, I do not wish to take the time of the Court but I would like to point out that we indicate that there has been a material change in the conditions of the real property in Alaska between the summer of 1968 and the present time. The State of Alaska has been very fortunate in receiving a huge payment of $900 million in cash which will balance its budget 50 per cent to pay one half of the taxes in the State of Alaska. It changed property values immeasurably.

MR. ORMSTEN: Your Honor, I received a call from Mr. Cashman of your office and he was kind enough, speaking on behalf of the Court, to ask what would be an appropriate return date. At the time we agreed on the 24th. However, there were two intervening factors, I was served opposition papers by Mr. Tilney on Friday and I finally agreed on the 24th and I was unaware that the office would be closed yesterday because of the national holiday. I would like at this time to state the commission's position but if the Court would indulge me I would respectfully ask for some extension of time in which to serve papers.

Your Honor, I had been in communication with both Mr. Tilney and Mr. Benisch prior to coming to court and pointed out to both that I believe that there would be a federal statute which would to some extent govern whatever

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was our ultimate disposition of this matter, and Mr. Benisch, counsel for the receiver, did make reference to it. That is Title 28, Section 2001. We would initially therefore ask that any sale be held in accordance with the provisions of that section which has to do with receivership sales under judicial supervision, that is, sales of real property, and it essentially deals with the necessary publicity and the need for appraisals and certain other matters that Mr. Benisch and I have consulted on and the Court also will, I am sure, want strict adherence with the statute. I mention that first, your Honor, because I think that that would in a sense deal to some extent with the question of what is the proper price because it would make provision for some degree of publicity.

Now, I have received this morning a copy of Mr. Tilney's -- of a telegram which was sent to Mr. Tilney. I would say if within a reasonable time it could be shown that we could get an offer for a greater sum, I don't think that any party here and certainly speaking for the Commission, we would not, we would not want to take any less but if, as Mr. Hogan has stated, this is thebest offer, I think it would be unwise to protract it. So subject to strict adherence with the statute and subject to accepting this as to any other better offer, we would see no reason at this

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interest of the creditors?

MR. ORMSTEN: That is a fair summation, yes, your Honor.

THE COURT: Is there any further business, gentlemen?

MR. TILNEY: Your Honor, I believe that the matter of the Marine Midland-Tinker application that the bank will be giving the Court a formal application. I am requesting them to do that today and reviewed by the receiver's counsel and the SEC so you shall have it in your hands at the early part of next week.

MR. BENISCH: Your Honor, I think what Mr. Tilney is referring to is a proposed order. I don't think it is a formal application, just to clarify that. Thank you, your Honor.

THE COURT: You have handed up the petition.

MR. BENISCH: Yes, sir.

THE COURT: I will take a brief recess. I would like to take a brief recess before we set a return date.

Do you think you can give me, Mr. Tilney, some estimate of the availability of your recently appointed counsel? Are they going to represent you in this petition to expunge the claims of the Tilney interests?

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MR. TILNEY: Yes, sir, they will be representing us in that matter and I would hesitate to commit them on time without consulting them but I will be glad to call your office as soon as I --

THE COURT: Don't call my office. Please call Mr. Benisch.

MR. TILNEY: I will call Mr. Benisch and let him know what their timetable is.

Would that be satisfactory, sir?

THE COURT: Yes, and I will hold off putting down a return date until I have heard from counsel.

- - -

I hereby certify that the shorthand notes recorded in this pad are, to the best of my skill and ability, true and accurate notes of the proceedings contained herein.

Official Court Reporter
U.S. District Court.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Plaintiff, -against- TILNEY & COMPANY and FREDERICK TILNEY, Defendants	1967 Civil Action File No. 4676

APPLICATION BY B. BERNARD GREIDINGER & COMPANY FOR ALLOWANCE OF INTERIM COMPENSATION

TO THE HONORABLE DAVID N. EDELSTEIN, JUDGE
UNITED STATES DISTRICT COURT:

The application of B. Bernard Greidinger & Company, Certified Public Accountants, respectfully shows:

1. Applicant is the firm of Certified Public Accountants employed by Joseph C. Hogan and I. Alan Harris, as Equity Receivers, pursuant to orders of this court dated December 18, 1967.

2. All of the services for which compensation is requested herein were rendered in connection with these proceedings and in furtherance of applicant's employment and the duties and responsibilities of the receivers herein, as required under the orders of the court.

3. No previous compensation has been allowed to applicant in these proceedings from the assets of the debtors.

4. The firm of B. Bernard Greidinger & Company, Independent Certified Public Accountants, has been engaged in the practice of public accounting for a period in excess of twenty-five years, during which period it has been retained to

and has conducted many special investigations of corporate affairs and has participated extensively in proceedings under civil actions and under Chapter X and Chapter XI of the Bankruptcy Act before various United States District Courts.

5. The instant proceedings involving the debtors, Tilney & Company (a partnership engaged in business as a security broker and dealer) and Frederick Tilney (an individual) as well as many transactions with affiliated companies, the general public (security customers), banking and lending institutions, members of Frederick Tilney's family and third parties are extremely complex and prolix. The applicant was required to expend substantial amounts of time for the purpose of investigating and reviewing the affairs of the debtors and for the prosecution and defense of various claims asserted during the course of the administration of these debtors' estates. Naturally, the promulgation and proposal of plans for legal actions and proposed liquidation of the estate in settlement of liabilities necessitated substantial use by the receivers of accounting services. It is impossible to set forth in precise detail each and every service which applicant rendered in these proceedings in accordance with its employment and the requests made upon it by the receivers and the court. Nonetheless, the following indicates the scope, magnitude and complexity of the services which were required to be rendered and were rendered by applicant in this proceedings. The following is not intended to be all inclusive but rather an explanatory recital of the nature and character of the professional services rendered herein so as to enable this court to fix the fair and reasonable value of such services for the purpose of allowing interim compensation herein. This should be read in conjunction with Application

For Interim Allowance of Compensation by Wagner, Quillinan & Tennant, Attorneys for the Receivers, as well as Application For Interim Allowance of Compensation by the Receivers, which is incorporated herein by reference.

6. The professional services rendered for the Receivers covers a period of in excess of two years and falls into the following three broad areas:

A) An extensive review, examination and investigation into the complex and entangled affairs of the debtors, involving very substantial sums owing from affiliated companies as well as substantial amounts owing to various banks, customers of the security business and other claimants. Such services were followed by appropriate reports, conferences with the receivers, counsel, and interested third parties, as well as the many court hearings. Substantial services have been required in connection with extensions of accounting services and plans for recoveries of assets, liquidation of debtors' assets and settling liability claims.

B) Extensive accounting, reporting and tax services to bring the incomplete books and records of these debtors to a current status as at the date of appointment of the receivers, and

C) Substantial accounting, reporting and tax services covering the receivers' administration from date of appointment, as of December 18, 1967 to February 28, 1970.

The scope and nature of the work involved in the three areas referred to above are briefly summarized in the succeeding paragraphs.

initial hearing on this matter the children were represented by

7. Our investigation, examination and extensions thereof into the affairs of the debtors' was directed and carried out under the instructions and guidance of the receivers and counsel. The complexities of the transactions as well as the limitations imposed by reason of the incomplete and questionable state of the records created hardships in determining the underlying facts and financial position of the debtors. Substantial time was expended in review of the debtors' records as well as reference to available records of affiliated companies.

Some of the major areas covered in the broad scope of our examination and investigation, and the reports of our findings resulting therefrom, which aided the receivers and counsel to institute action for the enlargement and preservation of the debtors' estate as well as determining underlying details of alleged estate liabilities include:

a) Review of transactions and intercompany receivables from affiliated companies (Governmental Statistical Corporation, Tilney & Company, Inc., and Tilney Construction Corporation, Inc.)

b) Review of transactions with Dorothy Tilney, wife of Frederick Tilney and a limited partner in Tilney & Company, debtor.

c) Review of transactions of debtors with children of Frederick Tilney.

d) Determination of creditors and the underlying status.

e) Review of complex financing, loan and pledge transactions involving banks, affiliates and the debtors.

f) Accounting for major disbursements of the debtors' funds through business and personal sources.

g) Review of transactions involving persons, security business customers, and security brokers and dealers having done business with the debtors for purposes of ascertaining any improprieties or courses of action.

8. Upon our appointment, physical inventories were taken and prepared of the assets, books of account and supporting records of the debtors as of the date of the receivers' appointment. Such details were necessary for purposes of sale and liquidation of the debtors' assets as well as the investigation which ensued.

9. A substantial portion of the accounts relating to the pre-receivership period had not been written up to date. Various records were in disarray and/or in an incomplete state, or otherwise not available at the debtors' place of business. Substantial records were required to be reviewed, including those from Alaskan branch offices which were turned over to the receivers.

10. In view of the limited resources and in order to conserve the estate assets, internal operations and expenditures were required to be maintained only for essential matters and were required to be performed by applicants, which included a wide variety of services. In the circumstances, it was necessary to complement and integrate our services with those performed by the receivers and attorneys for the receivers. In addition, liaison activities were required with other interested third parties for purposes of accounting, reporting and determination of the facts.

11. Prepared financial statements and report on the debtors as of the date of initiation of the receivership. Such report was used for purposes of determining financial position of the debtors and in connection with legal and financial matters to be pursued by the receivers and counsel. During the course of the proceedings, numerous financial reports and communications were prepared and submitted.

12. In the interests of conserving the estate assets, the broker-dealer office of the debtors was closed. Accordingly, files and records were required to be preserved and transferred to other suitable quarters in Hicksville, Long Island. The applicant was in direct charge and care of such records and spent considerable time at the debtors' Long Island offices in rendering such services.

13. Conducted and maintained the accounts and records of the receivers since inception of the proceedings to date. Many of these services were and are being rendered on a routine monthly basis.

14. Prepared tax and information tax returns, including Federal, State and municipal. Prepared various payroll and other tax returns, which had not been filed by the debtors. Substantial time was required in connection with governmental inquiries, claims filed and meetings.

15. The applicant maintained records and is the custodian of creditor claims filed which required analyses in connection therewith. This phase is still continuing. Of particular importance were the claims made by Dorothy Tilney and the Tilney children, which represent a major factor in determining the financial position of the debtors and ultimate payment in settlement of creditor claims. In connection therewith it has been necessary to answer inquiries and communicate with creditors.

16. Attended meetings and assisted the receivers and counsel in formulating policies and judgments involving legal and operational matters. Attendance at meetings and conferences with governmental agencies and authorities were also required.

17. Participated in court hearings for purposes of direction and guidance because of the complex nature of many

of the underlying transactions and involvements of the debtors. In connection therewith, it has been necessary to prepare special analyses, review various reports and documents prepared by Frederick Tilney, Dorothy Tilney, Tinker National Bank and other interested parties.

18. Certain major matters are still pending which will require accounting and reporting services in the months ahead, including finalizing and payments to creditors, final liquidation of estate assets, etc.

19. In connection with the foregoing enumerated services, covering the period from December 18, 1967 to February 28, 1970, the applicant has expended 1,735 hours, summarized as follows: partners - 475; supervisory and senior - 913; semi-seniors - 212; and staff assistants - 135. Conservative hourly rates charged in similar or related proceedings before the court are partners - $55; supervisory and seniors - $34; semi-seniors - $20; staff assistants - $12. On the basis of the rates and time expended, the reasonable value of services rendered on behalf of the receivers of the aforementioned debtors in this proceedings amounts to $61,201. In addition, the applicant has expended $643.57 for expenses of photocopy, transportation, footlockers, locks, etc. Accordingly, on the basis of the foregoing, applicant requests an interim allowance of $61,201 on account of the aforesaid services and $643.57 reimbursement for expenses.

Dated: New York, N. Y.
April 9, 1970

S. SHERMAN CREIDINGER & COMPANY

By: _____
A Member of the Firm

the loan from Tinker Bank of $95,000.00. Under the agreement here-

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

B. BERNARD GREIDINGER, does hereby make solemn oath that he is a member of the firm of B. Bernard Greidinger & Company, certified public accountants, the applicant named in the foregoing application and that the statements contained therein are true to the best of his knowledge, information and belief.

B. Bernard Greidinger
B. Bernard Greidinger

Sworn to before me this
9th day of April, 1970.

Michael H. Blatteis

MICHAEL H. BLATTEIS
Notary Public, State of New York
No. 30-5340105
Qualified in Nassau County
Certificates filed in New York County
Commission Expires March 30, 19..

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, - against - TILNEY & COMPANY, and FREDERICK TILNEY, Defendants.	67 Civil Action File No. 4676 APPLICATION FOR ALLOWANCE

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

JOSEPH C. HOGAN, being duly sworn, deposes and says that I. ALAN HARRIS, ESQUIRE and your deponent were duly appointed Co-Receivers of all the assets and property of defendants, TILNEY & COMPANY, a partnership engaged as a security broker-dealer and FREDERICK TILNEY, an individual and general partner of Tilney & Company, on December 18, 1967; that subsequently, by order of this Court dated July 16, 1969, your deponent was designated sole receiver of the above defendants.

This affidavit is in support of an application for an interim allowance of compensation on account of services rendered as co-receiver since his appointment on December 18th, 1967 and as sole receiver from July 16th, 1969 up to and including February 28, 1970.

The order of appointment was entered upon a motion brought by the Securities and Exchange Commission on November 28, 1967, which, in addition to a prior proceeding, alleged financial and operating deficiencies of the defendants, which included violations of the Net Capital Rule under Section 15 (c) (3) of the Securities Act of 1934.

The order of appointment provided:

. . 1. That defendants be restrained from directly or indirectly transferring, receiving or otherwise disposing of any of their securities or any other assets;

schedule attached thereto of his accountants [illegible]

2. Empowered the receivers to have full power to marshal all assets of the defendants and to liquidate the estates of said defendants in order to pay all just claims and all creditors of the defendants;

3. The receivers were authorized to employ such attorneys, accountants and other persons as might be required to perform their duties.

Your deponent is a partner in the law firm of HOGAN & KELLEHER, 29 Broadway, New York, New York 10006 (formerly 40 Wall Street, N.Y.,N.Y.), and has utilized the services of various members of his firm, together with the services of financial experts in respect to matters where such assistance was necessary. He has also used secretarial help of his firm for all such services.

Tilney & Company's main office at One Wall Street, New York City, employed three persons including Dorothy Tilney, the wife of defendant, Frederick Tilney. There were two branch offices in Alaska from whence most of the customers' security business was derived.

Since his appointment, your deponent has given the affairs of the defendants his continuous attention. Initially, the co-receiver and your deponent made a thorough study of financial statements (summaries) submitted by Tilney & Company, to the Securities and Exchange Commission. All records, including stock records at the Wall Street office were examined and checked against the Company's and individual defendant's securities in the safe-deposit boxes at the Irving Trust Company. Customers' accounts, loan accounts with various banks, trade accounts were examined and organized in an attempt to properly evaluate the financial status of the defendants.

After analysis, it was apparent to the receivers that the major portion of the defendant's holdings were in securities of/banks, local holding corporations in Alaska, and local New York

banks; that forced liquidation of relatively large blocks of the securities of these companies had to be avoided because of the adverse effect pricewise on a "thin" or practically non-existent market. Because lending banks were pressuring the co-receivers for liquidation of their loans, the receivers' problems were compounded, and it was only by strict utilization of their authority to orderly liquidate in the best interest of all creditors of the defendants that forced sales were avoided.

Conferences were held with the employees, particularly Mr. Laidlaw, who executed security transactions for Tilney & Company, to determine if transactions for customers were made by the Company as principal or agent. Cadwalader, Wickersham & Taft, attorneys for the defendants, conferred with the co-receivers in an effort to determine the merit of certain unresolved claims of the defendant company against other brokers. Financial data was acquired from various sources on bank stocks held by the defendant Company which were unlisted and were not carried on over the counter "pink sheets". The co-receivers negotiated with the building agents for surrender of the defendant Company's lease and settlement of rental arrearage and rent-free space was provided for the defendants' records.

Co-receivers' investigation disclosed significant financial transactions with members of the Tilney family which demonstrated the necessity for resolution of these matters vis-a-vis the creditors. An examination of the records of defendant's affiliated companies, not in receivership, reflected investments in receivables from said companies to the defendants in excess of $600,000.00. Evaluation of the assets of the affiliates indicated that potential receivables from them were not ascertainable until resolved by negotiation and/or legal determination. In fact our study showed that a major factor in the overall problem of Tilney & Company had been its relationship with Governmental Statistical Corporation, an affiliate, which had been a constant drain on Tilney & Company's

resources, resulting in the incurring of a huge debt of Governmental in favor of Tilney & Company.

Our investigation also disclosed that certain real property of the individual defendant was held with his wife as tenants by the entirety and other properties were held as tenants in common; further that said real properties were subject to mortgages and/or deeds of trust.

Co-receivers designated as their counsel the firm of Wagner, Quillinan and Tennant, and B. Bernard Greidinger & Company as their accountants. Your deponent opened receivers' accounts at Manufacturers Hanover Trust Company, 100 Park Row, New York, New York, filing with it copies of the court order, etc.

The accountants working in close and continued association with the receivers reported that the defendants' liabilities at the commencement of the receivership exceeded determinable assets by approximately $300,000.00. Notes payable to lending banks constituted approximately $663,000.00 of the defendant Company's indebtedness with securities pledged as collateral evaluated at $616,000.00.

Receivers were forced to follow a tortuous method of liquidation of the securities collateralizing the loans. Reduction of the Long Island National Bank loan to Tilney & Company by $28,000.00 was effected by the receivers with the cooperation of Frederick Tilney and Governmental Statistical Corporation. Tilney & Company had pledged notes of Governmental to secure the loan. Upon resolution, Governmental authorized Marine Midland Grace Trust Company of New York, as sinking fund agent, etc., to file applications with the Aetna Life Insurance & Casualty Company to purchase loans on keyman life insurance securing the Sinking Fund Notes of Governmental and apply the proceeds to the redemption of notes of Governmental held by Long Island National Bank as collateral.

The success of the liquidation method adopted is

attested to by the interim report of the accountants to and inclusive of May 31st, 1968, which showed an excess of collateral value of $64,000.00 over principal and interest owing to the banks.

Early in 1968 the receivers had an extended conference with officers and counsel for the Hatinecock Bank in an endeavor to effect purchase by the Bank of approximately 2,000 shares of its stock. An indicated offer was deemed inadequate by the receivers. Subsequently, based on information acquired at the conference and from other sources, the receivers were able to sell the block at a profit differential of about four points.

Phone calls, letters and telegrams from security customers, general creditors and Federal authorities were received requesting information as to the financial status of the defendants and when securities and payments might be expected. All inquiries were answered diligently prior to the issuance of an interim report to all known interested parties.

Receivers' accountants, working in close cooperation with the receivers and their counsel, prepared the data for the interim report, which together with a proof of claim form was mailed to all customers and creditors.

One of the major problems faced by the receivers was a contingent liability of Tilney & Company in connection with a City of Nome bond issue of $910,000.00, wherein the City might attempt to hold Tilney & Company liable for failure to perform in the sale of the bonds. Moreover, the defendants had failed to show said potential liability in statements submitted to the Security Exchange Commission. Briefly, the possible liability was incurred as follows: Tilney & Company entered into a non-profit agreement to purchase $475,000.00 of bonds of the City of Nome Water and Sewer System and that Governmental Statistical Corporation be retained for a fee as fiscal advisor; the purchase agreement provided the bonds be first offered for public sale and Tilney & Company be required to purchase if there were no bids. Subsequently, the bond issue was raised to $910,000.00 and Tilney & Company agreed to purchase the increased authorized amount. Nome was unable to sell

the bonds and Tilney & Company was not in financial condition to purchase. Your receivers and their counsel met with representatives of the City of Nome together with State of Alaska officials in an effort to mediate and resolve the problem but without initial success. Subsequently, proposals were made to have Governmental Statistical Corporation succeed to the contract with a possible offset to the City of Nome for the alleged indebtedness of Tilney & Company against Governmental Statistical Corporation's fee for fiscal advice. Unfortunately, no agreement was ever concluded in this regard and the City of Nome commenced suit against Tilney & Company and Frederick Tilney, individually, for $2,000,000.00.

Deponent's co-receiver and counsel expended considerable time in Alaska with attorneys for the City of Nome and structured what was eventually a most beneficial and economical settlement for the defendants. The suit was settled for $20,000.00 payable by Tilney & Company, plus a waiver by Governmental Statistical Corporation of any claim for advisory services against the City and a setoff of Governmental Statistical Corporation's indebtedness to Tilney & Company of an inconsequential amount because Governmental Statistical Corporation's debt to Tilney and Company was, for the major part, uncollectable.

It may be stated at this juncture that the settlement above mentioned could have been accomplished at an earlier period except that the defendant, Frederick Tilney, could not be convinced that Governmental Statistical Corporation's claim against Nome was much larger dollar-wise than any amount required for settlement of the suit.

Receivers and their counsel expended considerable time checking the relationship of Tilney & Company with another security firm, D. Raymond Kenney & Company. Both firms had engaged in several joint ventures, at the termination of which it was indicated that Kenney & Company owed defendant, Tilney & Company approximately $117,000.00. Investigation of Kenney & Company

indicated that the net assets of same were in the area of $35,000.00. However, counsel for the receivers commenced an action in the New York Supreme Court for collection of the moneys owed and most competently prosecuted the action to a summary judgment for the full amount of the claim. Many meetings were held with counsel for the defendant, Kenney & Company, resulting in a most favorable settlement: Kenney & Company paying $85,000.00 to the receivers.

Continued efforts were made by the receivers to obtain a favorable offer for "Sundown", the residence of the individual defendant, Frederick Tilney. An appraisal was made for the receivers in the amount of $125,000.00. An asking price of $175,000.00, subject to court approval, was placed on the property. Despite many inquiries only one offer was received and that was in the amount of $150,000.00. Receivers and their counsel agreed to recommend sale at this figure to this Court. However, the prospective purchaser amended his offer which, as amended, was at the same amount, but included in the proposed purchase three building lots of one-third acre each adjacent to Sundown; two of which were in the name of the individual defendant, Frederick Tilney, and the third allegedly owned by his wife, Dorothy Tilney. Renegotiation was attempted by the receivers without success. More recently an offer of $140,000.00 for the combined parcels was received, but your receiver deems the amount inadequate and he is continuing efforts to obtain a more favorable proposal.

Your deponent and the co-receiver have maintained and paid premiums on the life insurance of the individual defendant. Monthly payments have and are being made on a combination insurance mortgage policy on Sundown, the home of the defendant, to preserve and increase the equity in same for the benefit of creditors.

The defendant company owned 787 shares of the common stock of Waddington Bank, a small bank in upper New York State.

These shares, together with shares purportedly owned by children of the individual defendant, allegedly constituted working control of the Bank. The receivers for months attempted to sell the stock at a favorable price through various New York brokerage firms without success. Ultimately, your deponent received an offer of $47.00 per share for the block of stock from Blyth & Company, a New York brokerage firm. This offer was immediately communicated to my co-receiver who, on a "last chance" basis offered the block to an individual named Studley for $50.00 per share. The stock was purchased by Studley at the aforementioned figure. The individual defendant was apprised of the sale and registered no objection thereto.

Months after the sale and delivery of the stock to Studley, the individual defendant made objection to this Court as to the propriety of the sale. It was urged, among other things, that there was a personal relationship between my co-receiver and Studley and that the stock, because it was controlling interest in the bank, had a market value in the wide area of $70.00 to $100.00 per share.

In light of the objection, my co-receiver effected a recision of the sale, and resigned as co-receiver. By order of this Court your deponent then became sole receiver.

Extensive conferences were held with the Court and the Securities and Exchange Commission to determine how the block of stock should be re-offered for purchase and it was decided, because of the surrounding circumstances, to sell the block of stock, after notice and public advertising, at public auction.

Deponent and counsel, on order of this Court, advertised the public sale in the New York Times, the New York Law Journal and the Wall Street Journal. The individual defendant, with deponent's consent, mailed notice of the sale, together with data on the subject bank, to approximately 100 prospective buyers. An experienced

public auctioneer was engaged by your deponent to conduct the sale. The advertising and public notices directed all inquiries re the sale to your deponent. Two weeks of your deponent's time was totally occupied answering inquiries regarding the bank and the sale. Because of the apparent public interest, all parties to the proceeding were hopeful that a most favorable bid would be received for the stock at public auction and, born of our optimism, an "upset" price of $50.00 a share was established for the sale of the stock.

At the public auction no more than fifteen people were in attendance. The stock was first offered in small lots without any bids and finally the entire block was offered. One bid was made and accepted for the block at the "upset" price of $50.00.

Financially, the public auction, because of the advertising and auctioneer expense, cost the receiver's estate approximately $5,000.00, in addition to weeks of time necessarily expended by counsel and your deponent respectively in preparation for the sale.

Frederick Tilney, individually, claimed his children were bona fide creditors of his estate in the amount of $145,000.00. The claimed amount was predicated on certain promisory notes, with interest thereon, amounting to $133,000.00, which he had gifted to the children over a period of years, together with money in bank accounts and the value of stock allegedly owing by himself to his children.

After thorough investigation by deponent, his counsel and accountants, Frederick Tilney was advised that the claims would not be honored and that a special guardian should be appointed to represent their interests in a proceeding for the expunging thereof.

A proceeding was instituted in this Court by deponent's counsel to examine into and expunge the children's claims. At the

initial hearing on this matter the children were represented by a Guardian ad Litem appointed by the Nassau Supreme Court, who withdrew for various reasons and Arnold Bauman, Esquire was thereafter appointed Guardian.

Mr. Bauman, after examining into the facts pertinent to the children's claims, conceded at a hearing before this Court that the aforementioned notes did not constitute a liability of defendant, Frederick Tilney, and should be expunged. Further testimony was adduced at the hearing which indicated that claims based on funds in "Totten Trust" savings accounts were invalid because said funds, when expended by the defendants, were legally the property of Frederick Tilney. However, because additional records were required to make final determination in this regard, the matter was adjourned for further hearing when the records are available.

Dorothy Tilney, wife of the defendant, Frederick Tilney, filed formal proof of claim in the amount of $97,872.00. Your deponent and counsel examined the items of claim and are certain that they are without merit and a proceeding is pending before this Court to expunge same.

Interestingly, the major item of her claim is in the amount of $55,000.00, which allegedly represents funds advanced by her from proceeds of a Tinker National Bank loan to the defendant, Tilney & Company. A waiver of the alleged liability is a condition of an agreement about to be entered into, subject to the approval of this Court, by the Tinker National Bank and your deponent. The agreement and consent to the waiver by Dorothy Tilney will be discussed in the latter part of this report.

As abovementioned, Governmental Statistical Corporation is indebted to defendant, Tilney & Company to the extent of over $600,000.00. Analysis showed that Governmental Statistical Cor-

poration's assets consisted of real estate, a condemnation award, a note of Alaska State Development Corporation, and 640 shares of Matanuska Valley Bank.

Deponent's counsel obtained a confession of judgment against Governmental Statistical Corporation which was filed with the County Clerk of Nassau County, and served an execution on the Sheriff of said County. As a result, $3,500.00 was collected for the estate, same being the balance of proceeds on the condemnation award. Liens were filed against the real property, which is carried at book value of $82,000.00, for the protection of the estate interests, and presently, your deponent is attempting to procure a purchaser of the Alaska State Development Corporation note.

The note, which is in the amount of $95,000.00, due and payable August 1st, 1973, is being held as collateral for a Governmental loan of $62,000.00 by the Long Island National Bank. In addition, the Bank has $33,000.00 on deposit for defendant, Tilney & Company, which is being held by reason of guarantees as additional security for the Governmental Statistical Corporation loan.

Deponent and counsel are endeavoring to force the liquidation of the collateral, but the Bank is opposing, contending that there is no market for the note and implying that they are constrained to await redemption by the corporate maker.

There may be some merit to the Bank's contention. However, your deponent, after futilely attempting to sell the note through New York brokerage firms and banks, communicated with the corporate maker in Juneau, Alaska. As a result thereof, the Corporation made an offer of purchase in the amount of $45,000.00. Deponent rejected the offer and made a counter-proposal to sell at 80% of the face value of the note. After an extended telephone conference with Mr. Whelan, an officer of the Corporation, acceptance of the counter-proposal was indicated.

Unfortunately, pending finalization of the sale, a bondholder questioned the transaction on the grounds it might constitute a preference. Counsel for the Corporation presently is giving consideration to the matter and it is hoped that his advisory opinion will be in the negative. Should the sale be consumated, the estate would be benefited to the extent of approximately $47,000.00.

An omnipresent problem has been the unsecured indebtedness of the defendants to Tinker Bank in the amount of $98,000.00. The indebtedness was incurred before the appointment of receivers, by reason of an overdraft of defendant, Tilney & Company, in the amount of $95,000.00. In consequence thereof a Tilney & Company note to the Bank was executed and personally endorsed by the individual defendant, Frederick Tilney, and his wife, Dorothy Tilney. Accrued interest, before receivership, increased the liability to $98,000.00.

Your deponent, working assiduously and in close cooperation with Mr. Gunnigle, President of the Tinker Bank, evolved a series of proposals to divest the estate of the liability by collateralization of defendants property and/or property of affiliated companies.

Initially, a proposal was submitted that the Bank take title to five-plus acres of property on Centre Island allegedly owned jointly by defendant, Frederick Tilney, and his wife, Dorothy Tilney, for a waiver of any claim against the estates of the defendants. After extensive conferences with Mr. Gunnigle, reason was given to believe the proposal might succeed to agreement. However, ultimately, for diverse reasons, it was rejected by the Bank. Next, your deponent submitted a proposal that "Sundown", the home of the individual defendant, Frederick Tilney, by execution of deed or mortgage, be accepted for waiver of the liability. This plan progressed to the extent that counsel for the Bank prepared a formal petition to approve same for submission to the Court.

Regretably, because of the vexatious problem of preference this proposal had to be scuttled.

At the present time, however, a plan has been perfected and approved by the Bank, the Securities and Exchange Commission, and defendant, Frederick Tilney, whereby the Bank will take a mortgage on the "Norwich" property, the deed to which is held in the name of the individual defendant, Frederick Tilney, allegedly as a nominee for Tilney Construction, Inc., an affiliate, for waiver of the estates liability.

A petition for court approval of the plan is about to be submitted to this Court. If approved, the estates liability will be decreased by $98,000.00 and the assets be increased by approximately $5,000.00. The explanation for this statement is as follows: Deponent's appraiser valued the "Norwich" property at $82,500.00. An independent appraiser for the Bank valued the property at $103,500.00. The Bank, under the agreement, will credit Tilney & Company with it's appraisal figure, thus paying off the loan indebtedness and paying the overage of approximately $5,000.00 to the estate.

So that there cannot be any claim of preference, deponent and his counsel have provided in the agreement that, should the assets of the defendants' estates be insufficient to pay all creditors in full, the Bank will make pro rata indemnification of any overpayment to the estates. As an additional fillip, the agreement provides that the Bank, should it sell the mortgaged property for an amount in excess of the $103,500.00, will hold such overage in escrow, same to be applied for the benefit of creditors of the estates if required.

Earlier in this report, it was stated Dorothy Tilney, wife of defendant, Frederick Tilney, was asserting a claim against the estate of Tilney & Company for $55,000.00. This claim was predicated on personal endorsement of the Tilney & Company note for

the loan from Tinker Bank of $95,000.00. Under the agreement herein, she will waive said claim.

The individual defendant, Frederick Tilney, owned a partial interest in real property located in Anchorage, Alaska. The receivers, as absentee landlords, were confronted with easement grants and mortgage foreclosure sale on the property. With the aid of counsel these questions were resolved and the receivers bought in the property at public auction for the sum of $14,000.00. Since purchase, varying offers for the property have been received. Initially, there was an offer of $18,000.00, less brokerage of ten per cent. This offer was rejected by your deponent on the basis of information from a reputable Anchorage attorney that the property had a value of about $20,000.00. An appraisal of the property was ordered, but before receipt of same a firm counter-offer was made in the amount of $20,000.00. Said offer was accepted subject to an appraisal and court approval.

The appraisal, when received, estimated the value of the property to be $45,000.00, which seemed high according to information obtained by your deponent at the time of foreclosure. However, with some embarrassment, your deponent renegotiated with the agent for the purchaser and succeeded in obtaining an offer in writing of $32,000.00.net. A proceeding has been commenced in this Court for the approval of the sale in conformity with the provisions of the federal statute, and it is anticipated that the transaction will be consummated promptly.

Despite the "bear" market of years 1969 - 1970, your deponent sold 1,500 shares of Matanuska Valley Bank for the estate at the very favorable price of $29.00 per share. A purchase offer has been received for an additional 500 shares at $25.00, but it was rejected with the hope that we are nearing a favorable change in economic conditions and that a better price can be obtained.

Proceeds from the sale of Matanuska and cash assets of the estates have been invested in "Governments" yielding unusually high rates of interest.

Your deponent has paid out of assets of the estates in excess of $20,000.00 to maintain the mortgage, life insurance and tax payments of the defendants during the receivership.

It is needless to state that these estates are not static. Together, counsel, accountants and your deponent, are cautiously but actively endeavoring to terminate this receivership with full payment to all creditors.

Estate liabilities have been reduced to approximately $440,000.00, excluding administrative expenses. Pending matters, i.e. the Tinker National Bank waiver, the sale of the Anchorage property, and the disallowance of claims of the Tilney children would reduce liabilities, exclusive of administrative expenses, to approximately $276,000.00. A mortgage indebtedness of $26,000.00 on "Sundown", the residence of defendant, Frederick Tilney, will survive the receivership and can be discounted from liabilities, thus further reducing the figure to $250,000.00. In the "intensive care section", are the possibilities, as previously stated in this application, of substantial recoveries from Long Island National Bank and Governmental Statistical Corporation.

Cash assets of the estates total $255,000.00. Security assets at present market are conservatively valued at $100,000.00. In addition, the deponent has an equity position in "Sundown", based on a current offer, of $115,000.00.

Sale of the remaining estate securities must be made in a gradual manner to obtain the best market, particularly because of present economic conditions. However, based on the above facts, your deponent is confident that the assets of the defendants estates will be more than adequate to compensate for all liabilities.

Your deponent has read the application and the time schedule attached thereto of his accountants, D. Bernard Greidinger & Company. The firm has notable expertise in this field. Dr. Greidinger and his associates worked in close, friendly cooperation with your deponent on all facets of this matter. There is no objection to their requested compensation for services rendered.

Attorneys Wagner, Quillinan and Tennant have rendered most efficient and competent legal services on the intricate legal matters involved in this receivership. Their petition and time schedule have been reviewed by your deponent and there is no objection thereto.

The foregoing report does not state or encompass all the services performed by the deponent, but he feels it is sufficient to outline the scope and importance of those services. Based on the above facts and the annexed statement of services rendered, your deponent seeks an allowance of $45,000.00 for services rendered for the period of December 18, 1967 to February 28th, 1970.

At the conclusion of this proceeding an application will be made for additional allowance of compensation for services plus reimbursement for his disbursements.

Your deponent has made no previous application for an allowance herein nor has he received any prior compensation for reimbursement for expenses herein.

WHEREFORE, deponent prays that an interim allowance of $45,000.00 be made on account of services rendered by him during the period of December 18, 1967 to February 28th, 1970 without prejudice to deponent's right to apply in the future for the allowance of additional compensation for his services.

JOSIAH C. HOGAN

Sworn to before me this
15th day of April, 1970

CYRIL A. KELLNER
Notary Public, State of New York
No. 31-7269939
Qualified in New York County
Commission Expires March 30, 1972

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - -X

SECURITIES and EXCHANGE COMMISSION,

Plaintiff

-vs-

TILNEY & COMPANY, and FREDERICK TILNEY,

Defendants.

- - - - - - - - - - - - - - - - - -X

67 Civ. 4676

New York, New York,
April 29, 1970,
at 2:30 p.m.

Before:

HON. DAVID N. EDELSTEIN, District Judge.

Appearances:

FRANKLIN ORMSTEN, ESQ.,
Attorney for Securities and Exchange Commission.

JOSEPH C. HOGAN, ESQ.,
Receiver.

WAGNER, QUILLINAN & TENNANT, ESQS.,
Attorneys for Receiver,
ROBERT G. BENISCH, ESQ.

Also Present:

MR. FREDERICK TILNEY

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FOLEY SQUARE, NEW YORK N.Y. CO 7-4580

(Hearing started at 3:00 p.m.)

MR. BENISCH; Your Honor, I --

THE COURT: Before you proceed, Mr. Benisch, I would like to call to the attention of all counsel and to Mr. Tilney that this was returnable at 2:30, and I would urgently request in the future that you be on time.

MR. TILNEY: Your Honor, if I might state, my counsel advised --

THE COURT: Will you please rise, Mr. Tilney, when addressing the Court?

MR. TILNEY: (After rising) My counsel advised me that there is no purpose in my being here. He submitted the papers, and I was merely acting as a messenger to bring the papers to Mr. Hogan.

THE COURT: Who is your counsel?

MR. TILNEY: Saxe, Bacon & Bolan.

MR. BENISCH: Your Honor, although Mr. Tilney has stated on several occasions that he has counsel in this matter, I have never been served with a formal notice of appearance, and to the best of my recollection, the last time we were down here Mr. Tilney's counsel was engaged in Family Court and could not be present at that hearing. Counsel is not here today.

I would submit that this is somewhat irregular.

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It would also appear very unusual, in view of the issue that is involved here, namely, claims, that your counsel, whom you say you have retained and is representing you, did not deem it necessary or appropriate to be here today.

It is most unusual -- it is most unusual, and I would think as a matter of procedure, that you ought to call counsel, who has been represented here as having been retained, to advise him that the issue is narrow, and what it rests upon, and that it has been stated to the Court on the record that they did not deem it necessary to be here today.

Perhaps it might be advisable under the circumstances to follow it up with a letter.

MR. BENISCH: Your Honor, I have one other matter which bears on one particular claim, which is the claim by Tilney & Company, Inc. against the receivership, in the amount of $16,284.72.

With the Court's permission I would like to examine Mr. Tilney under oath with respect to the transaction or the underlying transaction on which this claim is based, inasmuch as it has a direct bearing on the receivership in that there may be a possible diversion of assets here from the receivership to Tilney & Company, Inc., an outside

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entity.

THE COURT: How do you propose to do that -- by a notice of taking deposition?

MR. BENISCH: No, sir, I would like to do that right here in open court.

MR. TILNEY: Without counsel present, your Honor, I prefer not to.

THE COURT: Then get your counsel and tell him to get here.

Mr. Tilney, call your counsel.

We will take a brief recess.

(Recess taken.)

MR. BENISCH: Your Honor, before we continue the hearing, I would like to ascertain from Mr. Tilney whether Tilney & Company and Frederick Tilney are represented by counsel in this proceeding.

MR. TILNEY: They are not. Tilney & Company and Frederick Tilney are not represented by counsel. Their counsel are Cadwalader, Wickersham & Taft, and they are not involved in this matter.

MR. BENISCH: Then, Mr. Tilney, who is Saxe, Bacon and Bolan?

MR. TILNEY: They are representing Mr. Tilney and Mrs. Tilney vs. the Receivers.

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THE COURT: In any event, with the numerous counsel you seem to have, are you prepared to proceed with this proceeding today, or do you want your counsel available?

MR. TILNEY: Your Honor, I would like to know the purpose.

THE COURT: I am not going to get into any colloquy. I asked you, are you prepared to proceed with this hearing under oath, or do you want counsel at your side?

MR. TILNEY: I would want counsel at my side.

THE COURT: Did you communicate with counsel, as I requested?

MR. TILNEY: I did, sir.

THE COURT: What was the answer?

MR. TILNEY: The answer was that the various counsel were all in court.

THE COURT: Then I will set this down for next Wednesday at ten o'clock.

MR. BENISCH: Just a second, your Honor. Mr. Tilney, did you communicate with Cadwalader, Wickersham & Taft?

MR. TILNEY: No, I did not.

MR. BENISCH: Well, I may request you, as Frederick Tilney, and as a partner in Tilney & Company --

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

TILNEY & COMPANY, FREDERICK TILNEY,

Defendants.

67 Civil Action
File No. 4676

REPORT AND PETITION FOR ALLOWANCE

TO HON. DAVID N. EDELSTEIN, UNITED STATES DISTRICT JUDGE

The report and petition of I. Alan Harris respectfully represents:

Joseph C. Hogan and I. Alan Harris, your petitioner, were duly appointed co-receivers of all assets and property of Tilney & Company ("the Tilney firm") and Frederick Tilney ("Tilney") individually, by a judgment and order of the Honorable David N. Edelstein, a judge of this court, dated and entered December 18, 1967. On December 20, 1967, on behalf of the receivers, your petitioner filed a receivers' bond issued by Fidelity and Deposit Company of Maryland, as Surety in the sum of $50,000 as fixed by the aforesaid judgment and order of appointment. By order of this court dated July 16, 1969, the offer of your petitioner to withdraw as a co-receiver herein was accepted, and thereafter your petitioner no longer acted as co-receiver, but necessarily continued and still continues, to engage in the performance of sundry services in furtherance of the due administration of this receivership, in reviewing and turning over securities and files, and in participating in mis-

cellaneous conferences for the purpose of assisting the receiver and counsel.

This report and petition seeks an order fixing and allowing the compensation for the services rendered and expenses incurred by your petitioner (from the date of his appointment on December 18, 1967 through the date of his withdrawal as receiver, on July 16, 1969, and including the services performed thereafter as reflected and set forth in the schedule attached hereto and made a part hereof ("Schedule"), being a transcript of the time records and references to the services performed by your petitioner in this matter, and including the services necessarily incurred in the preparation of this report and petition), and directing the payment thereof, and discharging and releasing your petitioner, and his surety, from his office as receiver and by reason of his acts and actions therein.

In preparing this report and petition, your petitioner deemed that it would be unnecessarily wasteful to duplicate and reproduce the financial information, schedules and material which are more than adequately presented and already on file in this matter as prepared by the accounting firm of B. Bernard Greidinger & Company which set forth, among other things, the financial results of the acts and actions of your petitioner. Therefore, the court's attention is respectfully directed to all said financial schedules, information and reports prepared by said accounting firm, and the same are incorporated herein by this reference thereto.

The court's attention is also respectfully directed to the Schedule attached hereto in which your petitioner sets forth, with great particularity, the date, amount of time spent, and the general nature of the services performed by him, which Schedule shows that an aggregate of 884.7 hours were expended by your petitioner in the performance of his duties in this matter. This Schedule does not include, as it cannot, the innumerable number of hours spent while traveling, resting or during periods of sleeplessness, during which your petitioner would think about, analyze, or mull over various problem areas of the receivership. This Schedule also does not include any time which may hereafter be expended by your petitioner in continuing to assist the receiver and his counsel or in connection with the additional time which may be expended in obtaining the order sought for herein; and your petitioner reserves the right to amend the Schedule to set forth and reflect any such additional time.

Your petitioner has prepared, and there is set forth below as part of this report, separate brief summaries of some of the more important or significant matters in which your petitioner was engaged and his acts with respect thereto. However, the said separate matters are not all inclusive, and do not include all of the matters which required your petitioner's services.

Although in many respects interrelated, each of the defendants' major assets and banking relationships posed substantial and unique problems which necessitated their being dealt with on an individual basis, the many difficult problems encountered and the complexity of the activities

of the defendants and their affiliates suggest, in your petitioner's view, that the most practicable and helpful presentation of his activities would be accomplished by the aforesaid brief summaries.

The court's attention is also respectfully directed to the many conferences and hearings held before the court, and the transcripts thereof on file herein, in which your petitioner reported, from time to time, on the status of the receivership and the acts of the receivers to the respective dates thereof.

Your petitioner is a member of the Bars of the States of New York and Florida, and during the times hereinafter mentioned, he was the senior member of the firm of Livingston, Livingston & Harris, maintaining offices and practicing law at 292 Madison Avenue, New York, New York 10017. In addition, your petitioner, as a member of the Bar of the State of Florida, maintained an office and association with another practitioner in the City of Miami, Florida.

Your petitioner's educational background includes the degree of Bachelor of Business Administration (majoring in accounting) from the College of the City of New York, Bachelor of Laws from New York University, and Master of Laws (in Taxation) from New York University. Your petitioner was admitted to the Bar of the State of New York in 1942 and has been engaged in the practice of law from that date, excluding the several years spent on active duty with the armed forces of the United States. Commencing in 1949, your petitioner practised law as an associate, and since 1953, as a partner with his present law firm. Among the major clients

of said law firm during that entire period of time to the date of the commencement of this receivership was a commercial bank in the City of New York, and said firm was general counsel to said bank.

For the six years prior to the commencement of this receivership, your petitioner had been the senior member of his law firm and as such was in charge of all of the legal affairs of said bank as general counsel thereof, attending at and participating in all meetings of the Board of Directors, Executive, Trust and Credit Committee meetings. Your petitioner participated in the planning of, guided or supervised all complicated or significant loan transactions; all efforts to avoid losses in threatened insolvencies and to recover in actual insolvencies; two mergers; private and public sale of securities, and participated in negotiations with respect thereto; all lawsuits involving serious questions of law, complicated questions of fact or substantial sums of money; and generally advised and guided the management and officers of the bank. In addition to said bank, other clients of your petitioner's law firm were loan companies, and other corporations, individuals of substance, and estates. Your petitioner had acquired, as a result of his education and professional experience, a knowledge and expertise in the fields of banking, finance, estate and tax planning, insolvencies and reorganizations; and your petitioner has acted as counsel or co-counsel to creditors' committees and as trustee and as co-trustee in two bankruptcies.

On January 4, 1968, because of the complexity and the volume of the financial relationships and transactions which existed among the defendants, several affiliates and members of Tilney's family, the receivers retained the accounting firm of B. Bernard Greidinger & Company to assist them. By January 30, 1968, the amount and volume of the administrative and legal matters which required attention caused the receivers to retain the law firm of Wagner, Quillinan & Tennant to assist them and to act as attorneys for the receivers. There was a complete lack of documentation to support the claimed financial and contractual relationships upon which Tilney expected the receivers to rely. These employments were made pursuant to the authorization contained in the aforesaid judgment and order dated December 18, 1967.

Reference to the very first item on the attached Schedule points out that the court, at the time of the appointment of the receivers, was aware of the nature and complexity of the problems which would be encountered by them and inquired of your petitioner as to whether he would be able to make available the extensive time and effort which would be necessary in this matter and to forgo other clients and matters. As is shown on said Schedule, for weeks and months, your petitioner was engaged almost daily in this matter, obviously to the exclusion of many other matters and clients. In the first four months, your petitioner spent over 265 hours on this matter, during the first year, over 580 hours, and as noted above, to the date hereof, 884.7 hours.

From the beginning of the receivership, your petitioner was confronted with an exceedingly burdensome task, and had the burden of receiving and reviewing all of the mail addressed to the defendants and redirected by the post office upon instructions. Your petitioner and his office took care of all of the administrative burdens of the estates, in addition to exercising, with his co-receiver, legal and business judgments as to all questions of sales of assets, thoroughly studying the massive volumes of financial statements, reports and schedules previously submitted to the S.E.C. and volumes thereafter sent to him by Tilney, investigating into the complex and inter-related affairs of the Tilney interests and corporations, conferring on a daily basis with Tilney, maintaining voluminous files (more than 40 in number) with respect to the various aspects of the estates, and conferring with counsel for the receivers, etc. The foregoing is not intended to be definitive or all inclusive. The fact is that the affairs of the defendants required the continuous and meticulous attention of your petitioner to uncover and to unfreeze assets, to unravel relationships and to insure that all just creditors and claimants received payment in full. Your petitioner's office was heavily involved in that his activities required the extensive back-up services of a secretary and a switchboard operator, and from time to time the services of other personnel and associates.

After studying and analyzing the massive and complicated financial statements and other material available, including written and oral statements, letters, status reports and analyses prepared by Tilney himself, your petitioner came early to the conclusion that these receivership estates were solvent, and that all just creditors and claimants would be paid in full even after the payment of all administrative expenses. There were many assets available to be liquidated, even though at first blush the titles to said assets were alleged or claimed to be in joint ownership, or in Mrs. Tilney's name alone, or held as nominee for an affiliated corporation or in trust for children, or in the name of an affiliated corporation. There were and still are many parcels of valuable real estate, securities and other assets, albeit alleged or claimed to be held or owned as aforesaid, including the very valuable real estate consisting of Tilney's home and the land thereunder and the valuable contents thereof. All of these assets had to be watched, supervised or controlled by the receivers and are subject to liquidation, if necessary, in order to pay expenses and just claims, except only those assets with respect to which competent evidence and sufficient proof can be adduced and offered by Tilney or the alleged owner to prove ownership elsewhere. It was apparent that certain liabilities, alleged to be due to the Tilney children, could not withstand investigation and motions to expunge, which your petitioner now understands has been granted after the valid interests of the children were protected by a guardian ad litem. Furthermore,

despite the later attempts of Tilney to assert additional liabilities and claims in favor of Mrs. Tilney and affiliated corporations, your petitioner was and still remains confident that said claims are spurious, unenforceable and should similarly be expunged.

This problem of assertions of ownership of assets by others and promoting of claimed liabilities of others (in which it is found that Tilney himself is the prime or only mover) is difficult to fathom. Tilney always maintained (and as noted, the receivers concurred) that all just outside creditors and claimants could and would be paid in full. Therefore, it would follow that any assets remaining as part of the estates would constitute a surplus belonging to the Tilney firm (its limited and general partner, in the order named) or to Tilney himself. Thereafter, Tilney, if he saw fit or felt morally obligated, could transfer any of said surplus to these other members of his family or to his affiliates. This was pointed out and the matter has been the subject of innumerable discussions with Tilney by the receivers and their counsel.

However, Tilney not only persists in his early assertions and claims, but advances and files, and causes others to assert, claim and file, even more outrageous claims. Your petitioner is convinced that none of Tilney's acts are in good faith and that his acts in this regard were and are solely designed to delay and harass the receivers for his own purposes. Tilney's protestations to the contrary notwithstanding, he believes that "anything goes" where money

is involved, and that he is entitled to do anything, to ignore the truth, to mislead the court, to threaten your petitioner and the receiver with innuendos and allusions as to law suits, to charge the existence of conspiracies to harm him, and so on. The only possible purpose or end to be gained by Tilney can be to hope to force a reduction in the fees and allowances requested by the individual receivers, their counsel and accountants. And yet, the foregoing tactics of Tilney, and the many other interferences and obstructions placed by Tilney in the path of an orderly and expeditious liquidation and conclusion of the receivership, serve solely to increase the aggregate administrative expenses which, of course, enjoy a priority status.

The receivers did everything in their power to avoid unnecessary increases in administrative expenses and to avoid imposing constant burdens upon the court by refraining from making repeated applications for authority, relying instead upon the general authority set forth in the judgment and order herein. During the early stages of the receivership, Tilney acquiesced in each and every act of the receivers. The sale of the stocks of both The Matinecock Bank and The Waddington Bank were with his express approval (see separate summary below). He lauded and praised the receivers, their knowledge and abilities. At the same time, he enjoyed his ability to put off his creditors by stating that all of his assets were "temporarily entailed". At times he enrolled the court and the S.E.C. on his side against some devils consisting of large banks, and at other

times he hinted that the law suits which were going to take place might include all other persons or entities (not excluding the foregoing) as defendants.

The foregoing recital is given for the purpose of indicating the nature and extent of the care which your petitioner had to employ in conversing, conferring or participating in correspondence with Tilney. In the futile attempts of the receivers to keep administrative expenses to a minimum, they made their own task heavier and more burdensome. However, the record is crystal-clear that Tilney himself was and is the direct and conscious cause of the extent of the administrative expenses; and he will be the one who, in effect, will be paying the same. All just creditors and claimants will be paid in full if Tilney's interferences, obstructions and ill-conceived plans and expectations are disposed of and cease.

One of the more significant examples of matters or occasions in or on which Tilney interfered, or in which his thinking was at variance with the best interests of the receivership, was the sale to or redemption by Alaska State Development Corp. ("ASDC") of its $95,000 note payable to Governmental Statistical Corporation ("GSC"), held by Long Island National Bank as collateral for the debts of GSC. Your petitioner obtained a firm bid of 80% of the face amount in September, 1968, but GSC (Tilney) refused to permit the bank to transfer the note. Now more than 1-1/2 years later, the receiver is attempting to obtain the same bid (see separate summary "Long Island National Bank" p.31 below).

Another example was the halt in the liquidation of the common stock of City Commerce Corp., the interference

with the negotiations concerning the possible sale of the debentures of City Commerce Corp., and the interference with the collection of the interest on said debentures (see separate summary "Alaska State Bank and City Commerce Corp." p.65 below). Merely in connection with the sale of the aforesaid common stock and debentures (hundreds of certificates of which were in the possession of your petitioner), while the market was right and speculative interest had developed in those securities (the receivers having sold some common stock at 45¢ per share), your petitioner's office had prepared the hundreds of stock and bond powers necessary for the continued sale and delivery and your petitioner had signed all of them when Tilney again convinced the co-receiver to listen to his blandishments, refused to permit the sale of any more at that time, and Tilney was given still another chance to delay while some "over-all plan" was to be submitted. Your petitioner is certain that this court recalls the number of times that Tilney or Mrs. Tilney made it a matter of record in court that such a plan would be forthcoming and would the court entertain the same, etc.,etc.

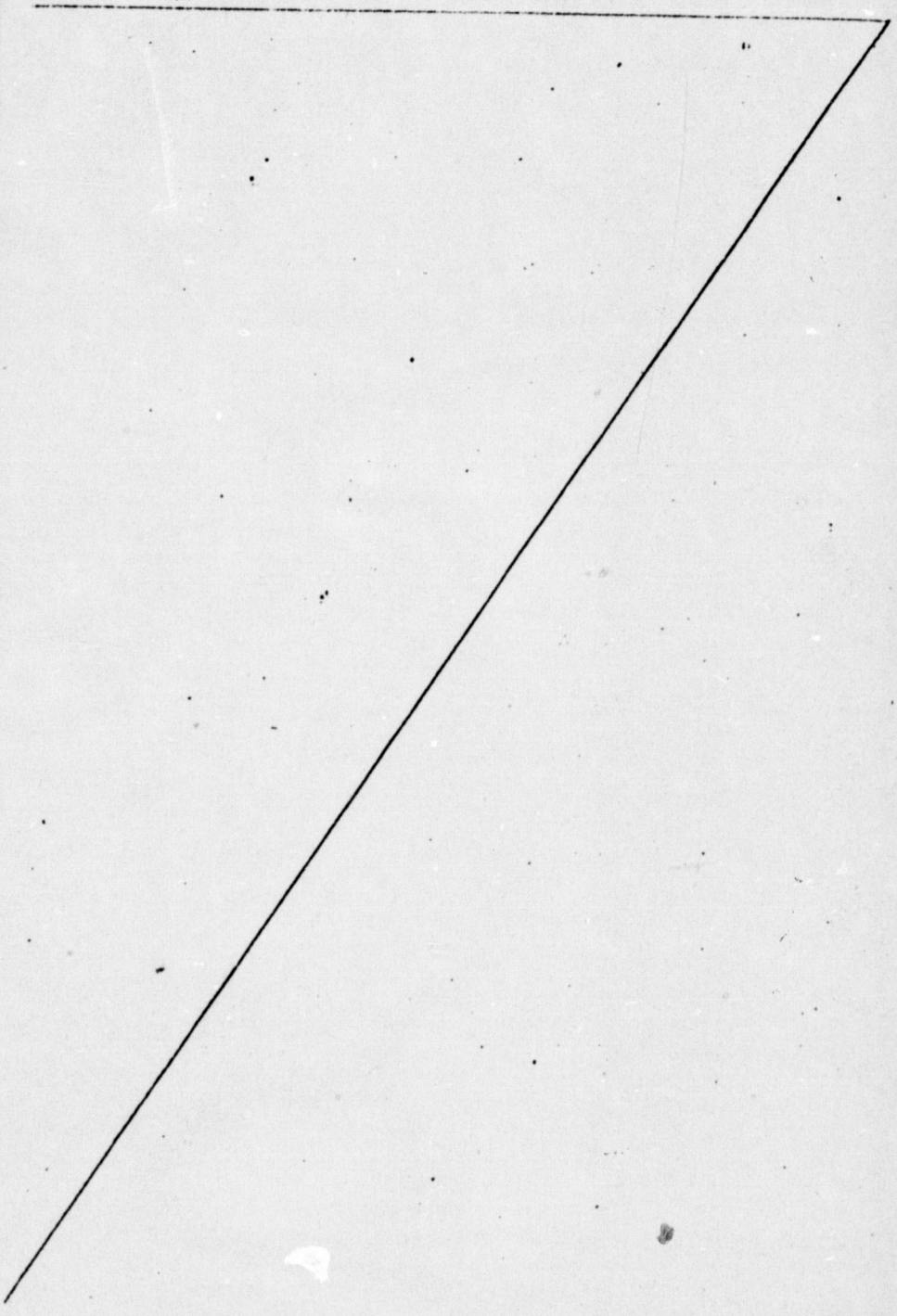
The court's attention is also called to the matter of the sale of stock of The Waddington Bank (see separate summary "Sale of Stock of Matinecock Bank and The Waddington Bank" p.71 below). With respect to this matter, insofar as it is relevant to the point being made herein, the court's attention is called to its own characterization in brief of what had occurred as a result of Tilney's own deliberate acts and

statements. On page 18 of the transcript taken in court, of the proceedings at the auction sale of the said stock held on September 24, 1969, after only one bid of $50 per share had been received, the following was stated by the Court:

> "I am not going to labor this point except to say that . . . we have certainly not been presented with very accurate facts or representations.
>
> "This sale has cost us approximately $4,000. I am extremely distressed, to say the very least . . .
>
> "I think to some extent . . . we have been euchered into a situation, the Court, the Receiver and the SEC. I think the record will indicate that representations were made that this stock was worth $70 or $80 a share . . . . "

Another example was Tilney's obstinacy with respect to the settlement of the City of Nome lawsuit. The estate was compelled to retain Alaskan counsel and to incur substantial additional expense in Alaska and in New York. The matter was ultimately settled on terms not more favorable than the estimate which Mr. Benisch and your petitioner arrived at while they were in Anchorage months before, at a time when the suit might have been settled then and there, they having conferred and negotiated with the City Manager, the City Attorney, and the attorney of record for the city (see separate summary "City of Nome" p.6✓ below). Tilney's obstinacy as to the sale or liquidation of the Anchorage real property (now in progress in the most expensive possible manner) and the stock of Matanuska Valley Bank are other examples. Tilney should not be heard to complain of the duration of the receivership or the substantial administration expenses incurred. He, his past acts and involved affairs, his own

lack of documentation, and most of all his behavior during this proceeding, are the causes thereof. All just creditors and claimants can and should be paid in full, and therefore the burden of the administration expenses will be borne by Tilney.



OFFICE AT 1 WALL STREET

When the receivers were appointed, they were advised that the office of the Tilney firm at 1 Wall Street was occupied under a written lease between Irving Trust Company, as landlord, and both the Tilney firm and Governmental Statistical Corporation ("GSC"), as tenant. A written 3-day demand was received from the landlord on January 3, 1968 stating that the total arrears amounted to $6,745.73. Extensive discussions ensued between the receivers and Tilney as to the space in question, Tilney being advised that the receivers would not permit the accrual of any unreasonable administration expenses, and that plans should be made to vacate the premises as soon as possible.

A summary proceeding to evict was commenced by the landlord. As noted, GSC was a co-tenant, but not under the receivership. Tilney wished to maintain the premises for GSC. Phone conferences and a meeting was had with the landlord and it was made clear that any arrangements proposed between Tilney and the landlord would be only for the account of GSC, and not for the receivership estate.

Mrs. Tilney gave the landlord the sum of $1200.00 on account, obtaining a stipulation in the summary proceeding concerning occupancy until a few days after February 12, 1968, i.e., until February 16, 1968; and on February 16, 1968 the premises were vacated, the intent of Tilney and GSC somehow to secure funds and to remain in possession proving fruitless. From time to time thereafter, Mr. and Mrs. Tilney have maintained that the said $1200.00 was expended at the request

or for the benefit of the receivership, and the position of your petitioner is to the contrary. Your petitioner does not have any recollection that he sought or even recommended said payment, but distinctly recalls the giving of his opinion at that time that the money was being unnecessarily expended. Parenthetically, however, if creditors are paid in full, which has been the distinct probability for sometime and still is the opinion of your petitioner, then the landlord will receive payment in full in any event; and any surplus or equity which remains after all creditors have been paid will belong to Mr. and Mrs. Tilney.

In anticipation of the need to move, the receivers and their accountants examined the books, records and files at 1 Wall Street, and arrangements were made as to which of such files belonged to and were vital to the receivership. In the belief of the receivers and Tilney that economy of administration would result therefrom, arrangements were made for the transportation of the necessary files to premises owned by GSC at Hicksville, Long Island, where the files were to be kept without expense. Arrangements were made for security measures and for the maintenance of all such files under locks to be opened only by the receivers or their accountants.

In accordance with the removal from 1 Wall Street, the landlord subsequently sent a bill dated March 31, 1968, to the receivers for elevator services, which bill was rejected in writing by your petitioner upon the theory that the same was unjustified. The landlord has not responded or answered that rejection in any manner.

Dealings with Creditors and Customers

At an early date in the receivership, it was clear to all concerned that some written notification should be sent to both the creditors and the customers (who had purchased or sold securities) of both the Tilney firm and Tilney. The receivers had been advised, and recognized and discovered through their examination of the voluminous files and papers turned over to them, that the customers had been ignored for many months, leading to complaining and threatening letters. Therefore, conferences concerning the drafting and make-up of a notice or letter were had. The first drafts and suggestions for such a letter were drafted and revised by your petitioner, his co-receiver, and Mr. Benisch. The final copy thereof, dated February 26, 1968, was approved by all concerned, reproduced and sent to all known Trade creditors and customers of the Tilney firm and Tilney.

As referred to in the said notice which was dated February 26, 1968, a report containing preliminary information concerning the financial condition of the receivership estates was to be prepared and similarly circulated, together with a form of Proof of Claim for filing with the receivers.

This 7-page "Report to the Customers and possible Creditors of Tilney & Co. and Frederick Tilney", dated October 31, 1968 (plus 3 pages of financial information as of July 31, 1968), was carefully and meticulously drafted and revised by your petitioner and Mr. Benisch. In

particular, the financial information was checked and revisions were requested from the accountants so that the same would be not only accurate but not subject to misinterpretation or erroneous evaluation by the recipients of the report. The financial affairs of the receivership estates had been and were extremely involved, complicated and intermingled with the affairs of other persons and legal entities, so that it has always required close attention and review before any meaningful conclusions could be drawn from any written or oral facts or material.

The draft of the form of the Proof of Claim was also revised and redrafted by your petitioner, acting in concert with Mr. Benisch.

Several months after the mailing of the aforesaid "Report" and Proof of Claim to known creditors, etc., and during February 1969, your petitioner participated in the redrafting and revision of a newspaper advertisement which was to be published in several newspapers giving notice again to all creditors, customers and claimants of Tilney & Co. or Frederick Tilney that Proofs of Claim were available upon request. The final form of the advertisement dated February 21st was published in The Wall Street Journal, The New York Times, Newsday, and The Anchorage Times.

Your petitioner was required to correspond and confer, on the phone and in person with the United States Attorney for the District of Alaska, and with customers whose securities or monies had been converted, keeping them advised as to the progress of the receivership and the receivers' estimate of the outcome.

REAL ESTATE

The receivers were advised that Tilney owned the building and land known as "Sundown" located on Centre Island, New York, and occupied by Tilney and his family as a residence. This property was encumbered by a mortgage held by The Equitable Life Assurance Society of the United States, which mortgage was also secured by a life insurance policy issued by said mortgagee on the life of Tilney and payable to Mrs. Tilney. Thus each monthly payment was required in order to pay the interest and principal on the mortgage, and the premium on the insurance policy. At the inception of the receivership, the receivers and counsel analyzed the situation and agreed that it was in the best interests of the receivership to keep the mortgage in good standing, the mortgage having an unpaid balance of approximately $30,000 and the value of the property being worth at least $125,000. This substantial value was to be protected for the benefit of the creditors.

However, each monthly payment also went to enhance the cash surrender value of the insurance policy and to protect the interest of Mrs. Tilney in the death proceeds, which value and proceeds would be exempt from the claims of creditors under the insurance law of New York. This problem had to be overcome. Furthermore, upon inquiry, it was discovered that the insurance company was holding dividend accumulations of more than $1700, also exempt under New York law. Therefore, the receivers insisted

that the dividend accumulations be obtained from the insurance company and turned over to the receivership. In addition, in order to protect and reimburse the receivership in the event of Tilney's death, the receivers obtained a collateral assignment of the policy.

There are additional parcels of real estate on Centre Island in which Tilney has an interest, and in some of which the title is held by Mr. and Mrs. Tilney, presumably as tenants by the entirety. The receivers were burdened with the problem of concern over the payment of taxes on these properties, the maintenance of insurance, etc. In discussing the question of values of the several properties, Tilney would maintain that some of the properties really belonged to Mrs. Tilney for the purpose of avoiding certain zoning requirements. This in turn interfered with the ability of the receivers and their counsel to come to some considered judgment as to the respective values for the purposes of liquidation. Nevertheless your petitioner early recognized the fact that there were substantial values inherent in the foregoing real estate, together with the real estate hereinafter referred to, supporting your petitioner's early opinion (maintained and strengthened to the date hereof) that this receivership will pay off all just claims and creditors in full. Therefore to the extent the administrative expenses were increased by the conduct and behavior of Tilney, the same only served to create a burden on him and diminished the

surplus which will remain after payment of said expenses and creditors.

Real Estate in Alaska

As to the real estate in Anchorage, Alaska, which your petitioner currently understands is about to be sold, your petitioner agreed with his co-receiver to protect the same at the time of the foreclosure of the mortgage early in the course of the receivership by acquiring the deed thereof. In this regard, again, although petitioner has withdrawn as receiver and is not directly involved, Tilney's grandiose ideas concerning values and his proposed unorthodox use of assets to "collateralize" non-existent debts due to his wife and children, is causing the receivership estates very substantial additional administrative expenses.

Miscellaneous Real Estate

A piece of property, known as the East Norwich property, is in the name of Tilney, but claimed by him to be held for the benefit of another corporation, Tilney Construction Co., Inc. Your petitioner participated in conversations and in reviewing the proposed contract of sale of said property, which sale did not take place. As noted in the extract of the time records of your petitioner attached hereto, your petitioner viewed and inspected said property along with all other parcels of real estate owned by any of the Tilney interests. Said corporation also owns a piece of real estate on South Broadway, Hicksville,

New York, contiguous to one of two parcels owned by GSC.

GSC owns a valuable parcel of real estate on South Broadway, Hicksville, New York and also owns the building and land known as 47 West Nicholai Street, Hicksville, New York.

With respect to all of the aforesaid real estate, at times Tilney had agreed that Sundown should be sold and liquidated. Your co-receiver negotiated on many occasions concerning the sale of Sundown at prices which Tilney indicated would be acceptable to him. However, Tilney would then change his mind so that all of the prior efforts of the receivers could be deemed wasted. It went as far as Tilney writing to the effect that he hired an auctioneer to auction off the contents.

With respect to others of the parcels of real estate, your petitioner participated in discussions and conferences with respect to the possibility that Tinker National Bank, an alleged creditor, would accept a deed or mortgage in lieu of satisfaction of its claim out of the estate.

Marine Midland Grace Trust Company of New York

At the first conference with the Hon. David N. Edelstein, U.S.D.J., it was pointed out that the law firm of Sullivan & Cromwell, attorneys for Marine Midland Grace Trust Company of New York ("Marine Midland") had strenuously objected to any injunction prohibiting their client, as a pledgee bank, from selling securities pledged by the Tilney firm. Your petitioner, therefore, took immediate and particular steps to review and analyze the entire matter of the then existing relationships between Marine Midland, the Tilney firm, Tilney and GSC. A meeting was arranged for January 5, 1968 at Marine Midland, and your petitioner and his co-receiver had a full discussion with a senior vice president and a representative of the firm of Sullivan & Cromsell concerning the estates and the progress already being made by the receivers. At that meeting we were advised that Marine Midland was a creditor of GSC also resulting from an apparent "kiting" operation with respect to its bank accounts at Marine Midland and Long Island National Bank, and that that matter was being handled by David N. Berenson, Esq.

On January 9, 1968, arrangements were made through Mr. Fred C. Zorn, President of the Bank of Suffolk County, for the sale of 974 shares of stock of said latter bank, then held by Marine Midland as collateral, for $98,175. This sum was more than sufficient to satisfy the balance due

to Marine Midland as a loan creditor of the Tilney firm, and correspondence was sent confirming the sale, including instructions for delivery and payment, and advising all interested parties. Incidentally, by Notice of Appeal dated January 8, 1968, the firm of Sullivan & Cromwell commenced an appeal from the Judgment here... by filing and service of said Notice of Appeal on January 10, 1968.

A subsequent sale of an additional 130 shares of the stock of the Bank of Suffolk for $13,000 was arranged while the securities were still in the possession of Marine Midland as pledgee, and arrangements and correspondence were required to be made by your petitioner concerning delivery, payment, and the return to the receivers by Marine Midland of the excess collateral, including any deposit balances in the bank accounts. Your petitioner engaged in several 'phone negotiations with Marine Midland opposing said bank's express intent to withhold its legal expenses out of the surplus cash and other collateral. Ultimately all excess collateral was delivered to the receivers without any deduction for such expenses.

Upon contacting Mr. Berenson, your petitioner discovered that Marine Midland had obtained a judgment against GSC prior to December 18, 1968, the date of entry of the Judgment and Order herein appointing the receivers.

Marine Midland, as Custodian, etc.
re: GSC 7-1/2% Sinking Fund Notes

GSC, almost all of the stock of which is owned by Tilney, was the obligor on $104,000 of 10-year 7-1/2% Sinking Fund Notes due 12/1/69. An analysis revealed that $89,000 of said Notes, payable to the Tilney firm, were held as collateral by Long Island National Bank, and $11,000 of said Notes, payable to the Tilney firm, were held as collateral by Marine Midland. Incidentally, Long Island National Bank was also a creditor of GSC.

Tilney suggested to the receivers that borrowings be effected against policies of life insurance previously taken out by GSC upon the lives of its present and former officers and employees, said policies of insurance being held by Marine Midland, as Custodian, etc., as partial security with respect to said 7-1/2% Notes. The proceeds of said borrowings should be used to pay the accrued expenses of Marine Midland as Custodian, etc., and the balance used in payment of the accrued interest on all outstanding 7-1/2% Notes, with the remaining surplus used in redemption of the earliest numbered Notes, all generally in accordance with the terms and provisions of the said Notes.

In order to understand and evaluate this procedure, your petitioner obtained the complete file of GSC with respect to said 7-1/2% Notes, and examined and analyzed the terms and provisions thereof. Extensive correspondence was received and sent concerning the arrangements to effectuate the foregoing. Marine Midland advised that David M.

Berenson, Esq. would handle these arrangements whereby Marine Midland was to resign as Custodian, etc.; provided, however, the obligation of GSC to Marine Midland, evidenced by the judgment hereinabove referred to, be satisfied in full, together with the payment of a reasonable sum for their expenses up to October 9, 1967. Marine Midland also made its file available for examination by your petitioner.

In order to consummate these arrangements, very detailed instructions by your petitioner to both Marine Midland and Long Island National Bank, specifically including instructions concerning the precise application of funds was required. It also included a review of corporate resolutions by GSC which had been adopted by said corporation on December 18, 1967 prior to the qualification of the receivers. Mr. Berenson required a modification of said resolutions, which was arranged for by your petitioner.

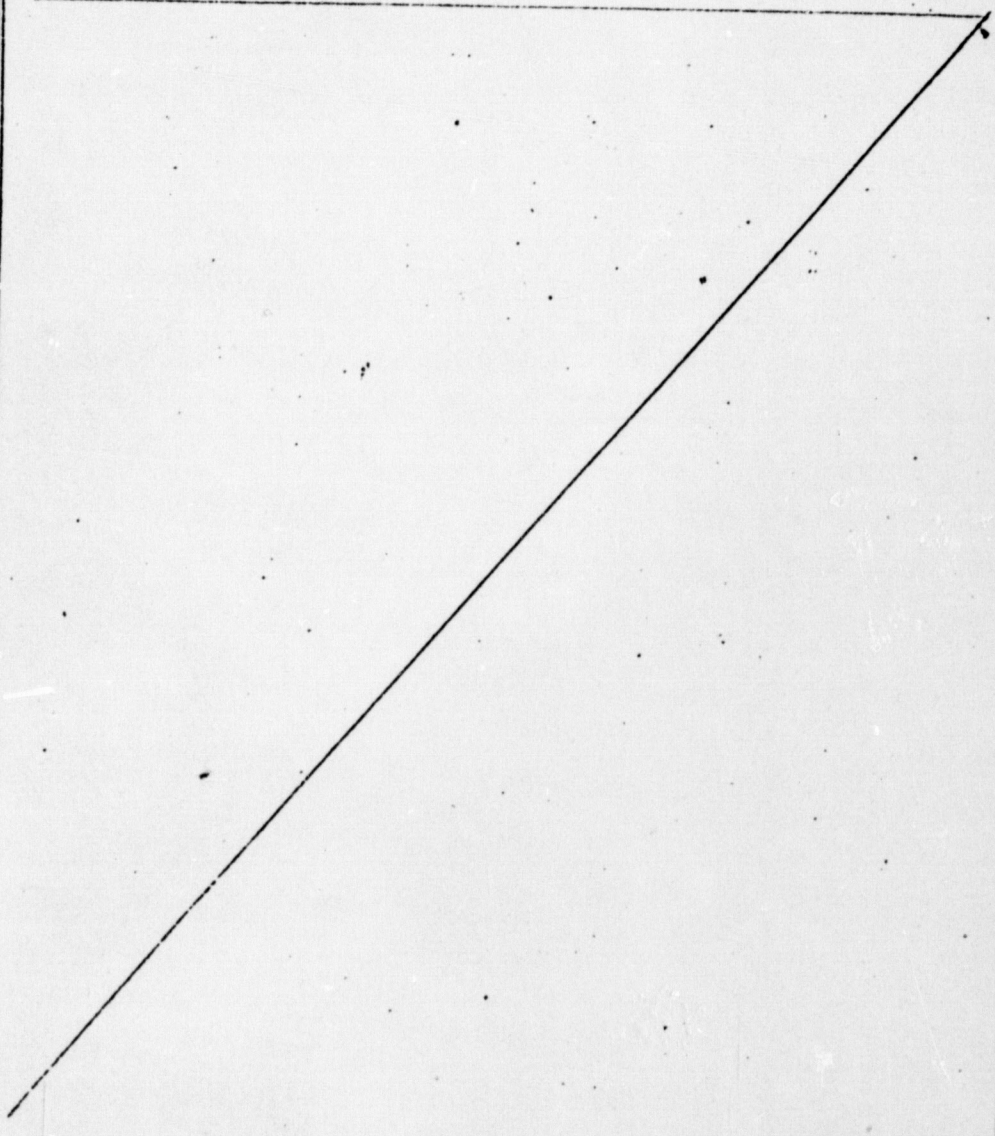
Parenthetically, it is to be noted that in a detailed 3 page letter, dated January 23, 1968, by GSC to Marine Midland, the comment was made that a certain certificate of deposit (for $30,000) held by Long Island National Bank would normally be applied to the further redemption of 7-1/2% GSC Notes owned by the Tilney firm and held as collateral by Long Island National Bank against its loan to said firm, i.e., that the certificate of deposit secured the Notes. (This statement as to the fact that the $30,000 deposit was security for the Notes held by Long Island National Bank also appeared in prior written material

of the Tilney firm, even material dated prior to the receivership.) The further comment is made that Long Island National Bank would prefer to apply the proceeds of the certificate of deposit to other obligations due to it by GSC directly, and that GSC, therefore, instructed Long Island National Bank so to apply the proceeds of said deposit. Your petitioner immediately objected and advised Long Island National Bank in writing that the proceeds of the certificate of deposit should be applied in further reduction of the loan of the Tilney firm but the said bank has refused. This entire matter was brought to the attention of counsel for the receivers, and remains to be resolved at this time.

Aside from the foregoing paragraph, the borrowings against the key men life policies were effectuated, Marine Midland satisfied its judgment against GSC and resigned as Custodian, etc., and Long Island National Bank received a significant reduction in the balance of the loan due from the Tilney firm.

Your petitioner was and has been made aware of the fact that loan agreements and instruments had previously been executed whereby the Tilney firm, Dorothy Tilney and GSC were "co-obligors", or accommodation makers, with respect to each other in connection with any borrowings by any one of them from Long Island National Bank; and that perhaps, by virtue of said agreements, Long Island National Bank might not be required to release any collateral,

regardless of by whom pledged, until all obligations were paid in full. Aside from unresolved questions of exactly who did or does own the particular items of collateral, your petitioner immediately raised, and maintained as an argument, that the doctrines and rules of contribution or subrogation entitle the receivers to recoup substantial sums of money from property belonging to its co-obligors after Long Island National Bank shall have been satisfied in full.



Claim against D. Raymond Kenney,
d/b/a D. Raymond Kenney & Co.

From the inception of the receivership, Tilney brought to the attention of the receivers, and thereafter repeatedly and prominently referred to a claim against the above-named broker-dealer arising from joint ventures going back more than 5 years. An examination was made of the Tilney firm's file in this matter, and conferences were had with Tilney and attorneys who had made a written demand upon Mr. Kenney.

After the receivers had retained the law firm of Wagner, Quillinan & Tennant to assist them in the receivership, the matter of prosecuting the claim and commencing a law suit against Mr. Kenney was turned over to said firm, Robert G. Benisch, of counsel, in particular. Your petitioner worked very closely with Mr. Benisch, reviewing and assisting in the revision and redrafting of all pleadings and papers in connection therewith.

A motion for summary judgment was granted and a judgment was entered in favor of the receivers for $107,815.49, plus interest, on July 2, 1968. Thereafter, extensive conferences, meetings and negotiations took place with Mr. Benisch and your petitioner seeking the satisfaction of said judgment. An extensive amount of time in the aggregate was expended in conferring and discussing with Tilney how and for how much said judgment might be satisfied. Statements

verified by Mr. Kenney as to his net worth, and copies of his income tax returns, were examined by Mr. Benisch and the receivers so as to evaluate the worth of the judgment and the possibility of satisfaction thereof. Your petitioner's records reflect that discussions and conferences were had with personnel of the S. E. C. in regard to this matter; and, by reason of his financial involvement, Mr. Kenney had discontinued his business operations as a broker-dealer at the request of the S.E.C.

The best offer that was obtained by Mr. Benisch was an offer of cash of $85,000 in full satisfaction of the judgment. This was discussed between counsel and the receivers and Tilney (who objected to the acceptance of said settlement). The receivers and their counsel were of the opinion that it was a favorable offer, and Mr. Benisch was authorized and directed to bring on a petition before this Court for authority to accept a settlement. At the hearing which followed, the merits of the application were presented by your petitioner and Mr. Benisch, and Tilney made a perfunctory objection on the record. Thereafter, this Court authorized the acceptance of the settlement.

LONG ISLAND NATIONAL BANK

At the commencement of the receivership, the receivers were advised that the Tilney firm owed $139,200 to Long Island National Bank secured by pledges of many different securities consisting in the main of lots of stock of various small Long Island Banks, a bank in Yonkers, and four banks in Alaska. In addition, Long Island National Bank held $89,000 face amount of GSC 7-1/2% Sinking Fund Notes.

Your petitioner immediately began to liquidate these securities, arranging for the sale thereof and preparing voluminous correspondence and instructions so as to cause delivery by the bank and the receipt of payment. Also as noted elsewhere in this report, considerable participation and attention was required by your petitioner in the matter of the arrangements concerning the redemption of some of the GSC 7-1/2% Notes and the receipt by the bank of all of the accrued interest and proceeds. In that regard, attention is also directed to the information contained in this report concerning the $30,000 certificate of deposit of Long Island National Bank held by said bank as security to the GSC 7-1/2% Notes, and to the interference by Tilney with the instructions of your petitioner and the consequent refusal of said bank to comply with said instructions.

As part of the overall relationship with said bank, it was discovered that the Tilney firm, Tilney, Mrs. Dorothy M. Tilney and GSC were "co-obligors" or accommodation makers

with respect to any loans or advances made by the bank to any one of them. Subsequently Mrs. Tilney made written claims that certain securities held by Long Island National Bank as collateral belonged to her. The matter of the title to these separately claimed securities has not been resolved, and information was received to the effect that some of them may be held by Mr. and Mrs. Tilney as joint tenants. In addition, your petitioner has made reference elsewhere in this report to the rules of contribution and subrogation, so that the receivership estates should have rights against the securities claimed by Mrs. Tilney (even if solely held by her). Your petitioner repeatedly put Long Island National Bank on notice of these claimed rights of the receivers.

As to GSC, at the commencement of the receivership, said corporation owed Long Island National Bank $92,000, and had pledged with said bank a $95,000 note of Alaska State Development Corporation ("ASDC"), 4%, due August 1, 1973. Upon the liquidation of the $30,000 certificate of deposit, Long Island National Bank, against the instructions of your petitioner, applied the $30,000 in reduction of the $92,000 debt of GSC. With respect to the ASDC $95,000 note, your petitioner attempted to find a market for said note with Franklin National Bank, National Bank of North America, with the brokerage firms of Blythe & Co., Inc. and Francis I. duPont & Co., and with other prospects, but to no avail. Therefore your petitioner wrote to

the issuer, requesting copies of all available financial information so as to assist in analyzing the value of the said $95,000 note, and also the value of said issuer's other debt securities, a significant amount of which of various series were held by Franklin National Bank as pledgee. Your petitioner also inquired of the issuer whether it would be interested in acquiring or redeeming the note, requesting a bid. Your petitioner received some financial material from ASDC, but was required to request copies of other material, such as "Supplemental Reports" referred to in the material first sent to him but not included therewith. All of this material ultimately was thoroughly reviewed and analyzed so as to assist in reaching a judgment as to the value of the $95,000 note.

On July 31, 1968, your petitioner received a letter from ASDC stating that it would buy the $95,000 note at a 20% discount. Your petitioner corresponded further with ASDC seeking to increase said bid, and also seeking to arrange for a definite period of time during which the bid would be maintained. The reply was that the bid was the maximum, and that the bid would be held open for 30 days from September 30, 1968, the date of the last letter.

Your petitioner discussed the matter with his co-receiver and counsel and sought to induce Tilney (on behalf of GSC) to accept the bid and to allow Long Island National Bank to send the note to Alaska against payment. On behalf of the receivers of the Tilney firm, your petitioner demanded

of the bank that it accept the bid as pledgee of the $95,000 note. Tilney, on the stationery of GSC, advised the bank not to comply with your petitioner's demand, and the bank relied upon Tilney's instructions. Had Long Island National Bank complied, $76,000 would have been collected, against which Long Island National Bank was due $62,000. Thus a $14,000 surplus would have resulted from this transaction alone to be turned over to the receivers on behalf of the Tilney firm to reimburse the Tilney firm for the use of the $30,000 certificate of deposit or in reduction of the GSC 7-1/2% Sinking Fund Notes owned by the Tilney firm and still held as collateral by said bank. All of the other cash collateral and securities then being held by the bank would also have been returned to the receivers; and the matter of the ownership of the collateral claimed by Mrs. Tilney would have been brought to a head.

It must be pointed out that ever since approximately October 1968, the Tilney firm did not owe any money to Long Island National Bank as a result of the liquidations of securities effected by the receivers. Said bank was holding substantial cash belonging to the Tilney firm (and additional securities) as collateral for the obligation of GSC, and your petitioner had put said bank on notice of a claim for interest on all surplus funds and possible other damages for its acts and omissions to act to the prejudice of the receivership estates.

Long Island Commercial Review, Inc.

Upon the appointment of the receivers, there was in the safe deposit box of the Tilney firm, 380 shares of the common stock of the above named corporation. An analysis of the other records revealed and, in the discussions with Mr. Tilney, it was found that Long Island National Bank, as pledgee, held $23,000 of 7% Convertible Debentures due 12/31/74 of the above named corporation, alleged to be owned by Dorothy Tilney, but pledged by her pursuant to the loan agreements entered into with said bank by herself, Tilney, the Tilney firm and GSC.

The above named corporation was also listed as a creditor of the Tilney firm, the amount due as of December 1966 being apparently $2,072.21.

Inquiry was made of Tilney for all information, preferably written, which he might have as to the financial status of the corporation, the value of the shares and notes, etc. Said corporation was closely held and there was no public market for the shares. The receivers were advised that from time to time in the past the corporation had purchased shares from several of its stockholders at the original cost thereof, plus 6% interest thereon.

Tilney was a director of said corporation. He supplied your petitioner with a copy of the April 30, 1967 financial statement which was reviewed and examined. The notes to said financial statement stated that the convertible

debentures were convertible into shares of the common stock during the year ending April 1, 1969, at the rate of 16 shares for each $1,000 of face amount of the debentures, decreasing at the rate of one share for each $1,000 of face amount during each succeeding year, to a final conversion rate of 11 shares for each $1,000 of face amount in the last year.

Your petitioner engaged in extensive 'phone and written negotiations with Mr. Paul Townsend, the President of the corporation, seeking a purchase by the corporation of the shares of stock held by the receivers. Simultaneously, each month the receivers were being sent a statement by said corporation for the amount alleged to be due by the Tilney firm, each statement being in an amount greater than the preceding statement by reason of a 1% per month interest charge on the unpaid balance. For example, the statement received September 17, 1968 demanded payment of $2,615.32.

As part of the negotiations with Mr. Townsend, your petitioner made it clear that under no circumstances would the receivers recognize or allow such interest charge. To further complicate matters, the above named corporation claimed that there was also due to it the additional sum of $1,963.65 from First Long Island Corp., another corporation belonging to Tilney. Mr. Townsend and his board of directors rejected the offer of the receiver to sell to the corporation its 380 shares of stock, but counter-offered to

buy said shares at $39 a share subject to an offset of the full amount (including interest) alleged to be due from the Tilney firm and from First Long Island Corp. Further extensive correspondence was had, resulting in a modified counter-offer of $39 a share subject to an offset of only the obligations of the Tilney firm (including interest). This counter-offer was rejected with the acquiescence of Tilney.

A subsequent financial statement of the corporation dated April 30, 1968 was turned over to the receivers and was examined by your petitioner. Repeated conferences and discussions were had concerning the progress and the status of the corporation and its business affairs with Tilney. If the affairs with Long Island National Bank had been resolved, that is, if the convertible debentures of the corporation held by said bank were available for sale, together with the 380 shares of stock, more immediate action would have been recommended by your petitioner looking towards the sale of said debentures and shares of stock as a package, probably at auction, unless Mr. and Mrs. Tilney acquiesced in a private sale thereof. It was never proven to the satisfaction of your petitioner that the convertible debentures held by Long Island National Bank belonged to Mrs. Tilney nor does your petitioner believe that this question of title has been resolved to date.

As a further comment relating to this corporation and its status as a creditor for all future purposes of the receivership commencing September 30, 1968, as a result of the position taken by your petitioner, the monthly statements of the corporation have been limited to $2,072.21, waiving the claim for interest of $543.11.

First National City Bank v. Tilney & Company

On January 9, 1968, a summons and complaint verified October 19, 1967 and seeking $10,693.49 by First National City Bank was turned over to the receivers, together with the file of the Tilney firm relating thereto. Your petitioner immediately advised Messrs. Zalkin & Cohen, the attorneys for the plaintiff in said action, of the appointment of the receivers and of their then estimate that the liquidation of the estate would result in full payment to the creditors. Inquiry was made of said attorneys as to the status of the law suit as the Tilney firm was not able to give definite information with respect thereto. The lawsuit involved an apparent "kiting" operation between bank accounts maintained by the Tilney firm at First National City Bank and bank accounts maintained by the Tilney firm and by Governmental Statistical at Long Island National Bank and the Chase Manhattan Bank.

Plaintiff's attorneys were requested by your petitioner, from time to time thereafter, to maintain the dormant status of the action, and were promised to be kept fully advised as to the progress of the receivership. Your petitioner was required to correspond periodically with said plaintiff's attorneys and the named plaintiff was treated as a creditor in all respects.

Steadman American Industry Fund, Inc.

Among the assets found in the safe deposit box of the Tilney firm by the receivers was a certificate for 14.372 shares of the above named corporation ("Steadman"). Your petitioner wrote to Steadman requesting advice as to the procedure for redemption or sale of the certificate under the particular circumstances. On March 11, 1968, no reply to the first letter having been forthcoming, another letter was sent.

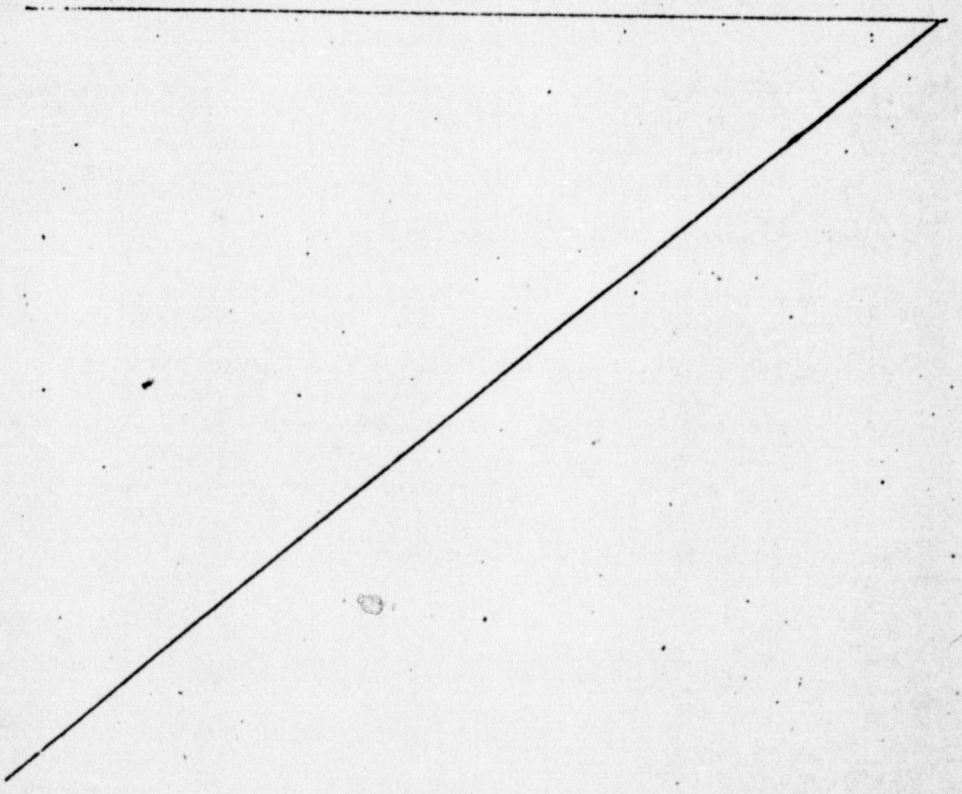
After receiving a reply from Steadman, on March 14, 1968, the certificate, together with written instructions for the guarantee of the signatures of the receivers and the delivery of the certificate against payment, was delivered by your petitioner to Manufacturers Hanover Trust Company ("Manufacturers"), the bank of deposit of the receivers, the proceeds to be credited to the receivers' account. It is to be noted that said securities were obviously securities of a mutual fund. Additional correspondence and phone calls were had with Manufacturers concerning the redemption of certificates.

On November 11, 1968, no information having been received by your petitioner as to the proposed redemption, nor did the consummation of the transaction appear among the very extensive and voluminous records and schedules prepared from time to time by the accountants for the receivers, further correspondence was initiated with Manufacturers on this subject. Upon inquiry by your petitioner, Manufacturers stated that the certificate was being held in safekeeping pending further instructions during all these months and

claimed that such advice thereof had been given. Your petitioner had never received such advice; and lengthy instructions were sent to Manufacturers on December 10, 1968, again to effectuate the redemption.

By April 2, 1969, no word had been received from Manufacturers, and another reminder was sent to them by your petitioner.

On June 5, your petitioner again requested Manufacturers to advise as to the status of the matter, and instructed said bank that if said bank could not perform the function of redemption of the certificate, to return the papers and stock certificate in question. On June 9, 1969 your petitioner corresponded directly with Steadman and finally effected the redemption, receiving a check therefor which was deposited in the receivers' bank account.



Sale of Stock of Matinecock Bank and The Waddington Bank

In the performance of their duties, the receivers from the date of their appointment, in addition to all other administrative and legal services, were seeking to liquidate the relatively more marketable assets. It is respectfully pointed out that the Court and all parties are aware of the nature of the assets, i.e., securities with very limited markets, securities with no markets, securities and debts of affiliated corporations (without any market, of course); family home, pieces of real estate owned by affiliated corporations or debtors, etc.

Matinecock Bank

In any event, on December 18, 1967 the receivers acquired control of 6,066 shares of stock of Matinecock Bank, Locust Valley, New York. Some of these shares were on hand, that is in the safe deposit box taken over by the receivers, and others were pledged with Long Island National Bank, Franklin National Bank and Marine Midland Grace Trust Company. The existence of these shares and the desire of the receivers to sell the same, with the acquiescence of Tilney, was made known to Blythe & Co., Inc., Francis I. duPont & Co., M. A. Shapiro & Co. and others.

The receivers analyzed the then existing market for the shares, and noted that in connection with the sale by Matinecock Bank itself of 149 shares of stock resulting from the aggregate of fractions at the time of the payment

of a stock dividend in the winter of 1968, said bank received a highest bid of $23.31 per share. In any event, the liquidation of these shares was considered, discussed and was the subject of numerous conferences between the said brokerage firms and the receivers, and between Tilney and the receivers.

On March 8, 1968 the receivers, pursuant to an appointment previously made by your petitioner, made a trip to the offices of Payne, Wood & Littlejohn, Esqs., Glen Cove, Long Island, and met with Mr. Hendrickson and Mr. Bellingham, President of said bank. The affairs of the bank were discussed, and in particular it was made known that it was desired that the shares be sold. The highest bid that these gentlemen discussed was $15 per share.

Subsequently and on May 10, 1968, a bid was received through Blythe & Co. of $20.00 a share net for the entire block of 6,066 shares, and the same was accepted with the acquiescence of all concerned, including Tilney. From March 18, 1968, an open order had been maintained at Francis I. duPont & Co. to sell said shares at $21.00, but without success.

Your petitioner took care of the voluminous correspondence and performance of administrative details which were required to conclude the transaction and obtain the funds. The aggregate funds derived from the sale of said shares amounted to $121,016.70, portions of which were received by Long Island National Bank and Franklin National Bank as pledgees of portions of said shares.

The Waddington Bank

Among the securities available to the receivers were 96.17 shares of The Waddington Bank which were delivered to the receivers by Marine Midland after said latter bank had been satisfied in full, and an additional 691.081 shares held under pledge by Long Island National Bank. After such market research as was available, your petitioner wrote to the President of the Bank advising him of the receivership, and requesting financial information so that the shares could be evaluated. In addition, Tilney was requested to supply any and all information which he might have, it being assumed that he would have an extensive file by reason of the relatively large percentage of the outstanding shares of stock represented by the above noted shares. Incidentally, Tilney advised your petitioner that Mrs. Tilney and his three minor children owned an additional 96 shares which had been purchased not too many months before. Tilney had no file but supplied your petitioner with a recompilation of statements of condition of said bank for five years through 12/31/66 obtained from Polk's Directory.

The Vice President of the bank, in reply to the correspondence from your petitioner, sent a sheet marked "Comparative Earnings for 3 years -- 1965, 1966 and 1967". Extensive conferences were had with Tilney by your petitioner probing his knowledge as to the underlying facts not set forth in any written material; and your petitioner was advised by Tilney that the affairs and condition of the bank were in excellent shape, that the bank had turned the corner,

and that the sole active officer, the vice president and cashier, was a very valuable officer and the one responsible for the change in the condition and prospects of the bank. Tilney maintained that there were practically no bad loans still to be charged off.

As noted above with respect to the shares of stock of the Matinecock Bank, the shares of stock of The Waddington Bank were also offered for sale to the same brokerage firms. In addition your petitioner attempted to elicit bids for the stock from Mr. Henry Howard, a director of and the counsel to said bank in Waddington, New York. Mr. Howard discussed a figure of approximately $25.00 a share, stating that shares were bought from time to time at prices lower and sometimes higher than that. He knew of no one who was interested at any better price. Your petitioner also sought to obtain a bid from a Mr. Jack H. Studley, a member of the Bar but one who had not practiced law.

Mr. Studley and your petitioner had gone to law school together, and Mr. Studley was well known to your petitioner. In fact, at or about the time in question, a "closed" corporation in which Mr. Studley had an interest, had become a client of your petitioner's firm. Mr. Studley's father-in-law was a director of a small bank; and Mr. Studley not too many years prior, had liquidated the family business and had made it known that he was looking for new business interests.

In any event your petitioner brought to the attention of Mr. Studley the existence of the block of stock, and kept transmitting to him the information derived from the material received from The Waddington Bank and derived from Tilney. The operations of banks in general, and the interpretation of financial statements thereof, was explained to Mr. Studley by your petitioner based upon his training and experience. During the month of May 1968, Mr. Studley advised your petitioner that he was contemplating making a bid of $50.00 per share for the block of stock. Tilney had been kept fully advised by your petitioner (as he was kept fully advised with respect to all other acts of the receivers), and in particular that there was a possibility of a $50.00 per share bid. Tilney stated that it would be acceptable to Tilney, not only on his own behalf, but on behalf of Mrs. Tilney and their children with respect to the additional 96 shares of stock not subject to the receivership. (It is believed that said 96 shares of stock were purchased by the Tilneys at $40.00 a share only a few months earlier.)

During the last week in May 1968, your petitioner was advised by his co-receiver that he had effected a sale of the shares of The Waddington Bank to Blyth & Co. at $47.00 a share. Your petitioner immediately advised Mr. Hogan that your petitioner had no recollection of previously agreeing or approving such sale, and in fact that he had been negotiating to elicit a bid of $50.00 a share, which bid seemed to be in the offing. For the next several

weeks, there were innumerable telephone conversations, conferences, negotiations, etc. with Blyth & Co. seeking to resolve the misunderstanding, which proved unsuccessful. Tilney, and Mrs. Tilney on behalf of herself and as custodian of the shares belonging to her children, ultimately entered into an agreement with Mr. Studley selling him the shares at $50.00 a share.

It subsequently developed that the affairs of The Waddington Bank were in a terrible condition. Tilney's information as to the same was grossly erroneous. When Mr. Studley, in late November or December, was advised by Messrs. Hansen and Howard, two of the directors and the president and counsel respectively of the bank, of only part of their problems, Mr. Studley requested your petitioner to become a director of the bank along with him at the next stockholders' meeting, then scheduled for January 1969, so that the knowledge, experience, etc. of your petitioner would be available in an attempt to salvage, not only Mr. Studley's investment in the bank, but the bank itself. As previously made known to this Court, your petitioner felt personally responsible for not having properly investigated and analyzed the bank; and without realizing that the same might in any manner be deemed improper, and without any financial interest therein, accepted the directorship and attended the meeting of the board of directors in March 1969, the necessary 100 shares of stock for qualification under the Banking Law having been transferred (for record purposes only) into the name of your petitioner.

In the latter part of May 1969, Tilney raised this matter with Messrs. Hogan and Benisch claiming that the relationship was grossly improper and hinting that the sales price was much too low and below a fair market value. Thereafter conferences were had in Court and transcripts taken, to which transcripts attention is respectfully directed. Tilney then took the position that the sales price was much below market value, that he would produce independent expert appraisals to that effect, that a resale of the stock would result in a significant increase in proceeds for the estate, etc., none of which statements were subsequently supported.

At the conclusion of a conference at Court on June 26, 1969, after the suggestion had been made that your petitioner use his best efforts to re-acquire the shares of stock for the receivership estates from Mr. Studley so that the same might be sold at public auction, and after other matters had been discussed and the conference adjourned, Tilney interjected that your petitioner should resign as receiver. Again, the Court's attention is respectfully directed to the transcript of said conference.

It was noted by the Court that Tilney's application was neither relevant nor appropriate, nor founded upon any evidence of impropriety. Nevertheless, as a result of the colloquy that then ensued and the offer of your petitioner to do anything to assist in an expeditious conclusion of the receivership, thereafter an order was

entered on July 16, 1969 whereby the offer of your petitioner to withdraw as co-receiver was accepted.

With respect to the re-acquisition by the receivership estates of the shares purchased by Mr. Studley, your petitioner was successful in persuading Mr. Studley to return the said shares to Mr. Hogan as receiver in consideration of the return to Mr. Studley of exactly what he had paid for them, despite the fact that the receivership had the use and benefit of the funds for one year. Subsequently, and after the most extensive public advertising in newspapers from coast to coast and after the distribution of a brochure prepared by Tilney himself and distributed by him to hundreds of prospects, the shares were sold at public auction during the latter part of September 1969, and the highest (and sole) bid was $50.00 per share.

It is respectfully submitted that the request of Tilney that your petitioner should resign had nothing to do with The Waddington Bank matter. As previously noted, Tilney was kept fully and currently advised, and knew that your petitioner was seeking to convince the only live prospect he could then find, an old friend, classmate and client, to purchase the stock. Both Mr. and Mrs. Tilney willingly, and with full knowledge of all the facts then existing, approved the transaction and participated therein, thus realizing $50.00 per share instead of $47.00 per share. The desire of Tilney to eliminate your petitioner as one of the receivers was due to many other things, which are evident from reading the voluminous correspondence and other written material in the files on this matter.

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FRANKLIN NATIONAL BANK

At the commencement of the receivership, the Tilney firm owed Franklin National Bank $363,300.00 secured by eleven lots of different tax exempt bonds and ten lots of different common stocks. The approximate market value of all of these securities was about equal to the amount of the loan. About half of the debt securities were issues of Alaska State Development Corp., not too well recognized for investment generally in the financial markets in which municipal bonds are bought and sold.

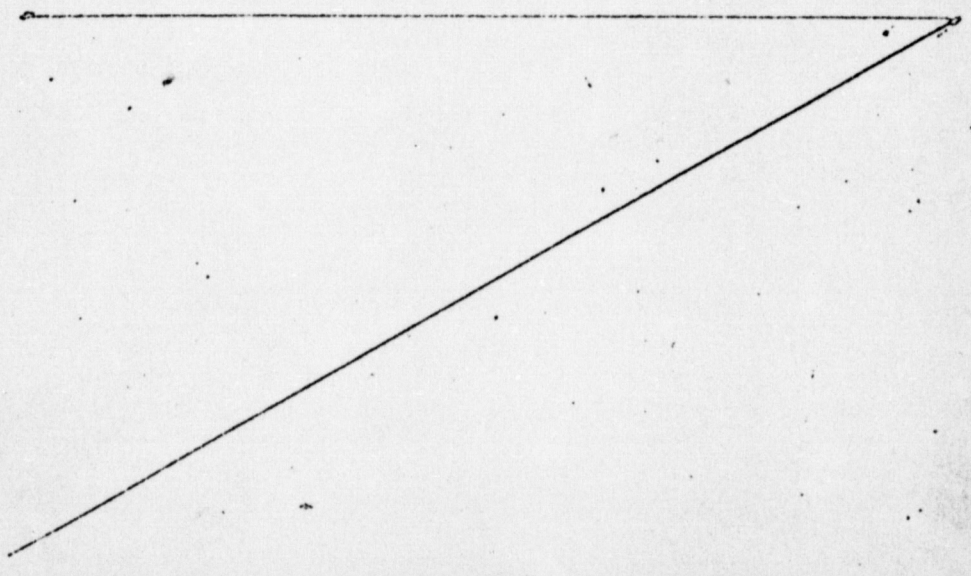
Franklin National Bank and their counsel began to press for a rapid liquidation of the collateral. Your petitioner conferred with said bank's counsel, and subsequently a conference was had at the bank between the receivers, Mr. Benisch, the bank's counsel and officers of the bank.

Thereafter, as a result of many telephone calls, visits to other brokerage firms, and general negotiations, the receivers effectuated sales of all of the securities. Your petitioner took care of the telephone calls, the rejections and acceptances of bids, the volumes of correspondence and supervision of the administrative details which were required to effectuate these transactions and to maintain control over the receivership. All correspondence in this matter, and in connection with most other matters of the receivership, funneled through your petitioner's office and across his desk (except when, through inadvertence

or otherwise, third persons ignored the receivers and continued to deal directly with Tilney, in which cases your petitioner ultimately had more work and responsibility than if the correspondence had not been misdirected).

One point to be noted at this time is the fact that a corporation, Tilney & Co. Inc., was, and is, claimed by Tilney to have been the owner of some of the securities held by this bank and liquidated as noted above, although Tilney also makes reference to the fact that the Tilney firm had loaned substantial sums of money to the said corporation. Your petitioner had requested the accountants for the receivers to investigate and analyze the history of this loan account at Franklin National Bank, and also the standing as between the firm and the corporation.

After all of the securities had been liquidated, the bank maintained that there was due to it the sum of $2,734.56 as of August 5, 1968, plus a claim for interest for May, June and July of $366.02. Thus, your petitioner and his co-receiver, in the case of this pledgee bank alone, effectuated the sale of more than $350,000 of securities.



Stock of Central Alaska Utilities and National Bank of Alaska

At the inception of the receivership, the receivers were advised that Tilney owed $1000 to National Bank of Alaska, Anchorage, Alaska, and that that bank held 6,509 shares of stock of Central Alaska Utilities as collateral security for the loan. Tilney indicated a market value of $3,00 per share for the shares of Central Alaska Utilities.

At the same time Tilney owned 41 shares of stock of National Bank of Alaska, 31 of which were pledged with Long Island National Bank and 10 of which were in the safe deposit box which came under the control of the receivers. In addition, the Tilney firm owned 98 shares of National Bank of Alaska, 47 of which were pledged with Long Island National Bank and 51 of which were in the said safe deposit box. Thus, the shares of National Bank of Alaska available for sale aggregated 139.

Your petitioner notified National Bank of Alaska by mail of the existence of the receivership, enclosing a certified copy of the Judgment and Order, and requested information and the transmittal of any deposit balances in any bank accounts. Copies of all communications sent out by your petitioner were also sent to Tilney.

On March 5, 1968, arrangements were made through an officer of National Bank of Alaska to sell the 139 shares of its stock referred to above, plus one additional share owned by Dorothy Tilney, or an aggregate of 140 shares, to various purchasers in Alaska at a price of $60.00 per share.

Your petitioner prepared detailed specific and voluminous correspondence to Long Island National Bank (the pledgee bank) and to Manufacturers Hanover Trust Company (the receivers' bank) to forward the respective identified shares to National Bank of Alaska against payment.

By letter dated March 8, 1968, your petitioner received a reply from National Bank of Alaska, referring to your petitioner's earlier letter advising them of the existence of the receivership, and stating that said National Bank of Alaska was on the verge of forwarding the funds to the Tilney firm's local office in Anchorage. Apparently National Bank of Alaska had not yet received copies of all of your petitioner's correspondence which had been sent to it, and was relying on, at best, misunderstood instructions given by Tilney. Your petitioner was required immediately to send further detailed correspondence in order to prevent any funds from going astray.

Another involvement with said National Bank of Alaska existed in the following regard. An employee of the Tilney firm or GSC at Anchorage, to wit, George Brown, maintained his bank account at said bank, and in December 1967 and January 1968 he deposited two checks drawn by GSC on its account at Long Island National Bank aggregating $1,630.40 and representing salary. Both checks were returned for insufficient funds, but prior thereto Mr. Brown had been given credit for the deposit by National Bank of Alaska and had withdrawn the funds. National Bank of Alaska stated that the checks had been returned to the drawee bank,

Long Island National Bank, for collection on numerous occasions but without success.

On June 26, 1968, a representative of National Bank of Alaska, Mr. DeCastro, came to the office of your petitioner and advised him of the foregoing facts concerning the bad checks of GSC. In addition to inquiring of the receivers as to whether there was anything that could be done by the receivers to assist the bank in the matter of the bad checks, the matter of the satisfaction of the outstanding loan was discussed. Your petitioner took advantage of the visit and the desire of said bank to obtain reimbursement, and furnished Mr. DeCastro with details concerning that certain $95,000 note issued by Alaska State Development Corp. to GSC. That $95,000 note was held as collateral by Long Island National Bank against a loan then reduced to $62,000. It was indicated that if National Bank of Alaska, for its own account or on behalf of another, could arrange for the purchase of said note, even at a substantial discount, the receivers would use their best efforts to see that GSC made good its obligation on the two bad checks (even though, as noted elsewhere in this report, the receivership estate of the Tilney firm itself, would be entitled to any surplus resulting from the sale of the said $95,000 note at a price in excess of the $62,000 then due to Long Island National Bank).

Subsequently, and as noted in greater detail elsewhere in this report, your petitioner and Mr. Benisch made a trip to Alaska and while there visited the offices of National Bank of Alaska, seeking to effectuate the liquidation of the 6,509 shares of stock of Central Alaska Utilities,

the satisfaction of the loan to National Bank of Alaska and the obtaining of any surplus for the receivership. Prior to said Alaskan trip, letters were sent to Central Alaska Utilities and to National Bank of Alaska advising them of the visit, and requesting that financial and other important information be made available, if possible. However, despite repeated phone calls and inquiries while in Anchorage Alaska, your petitioner was not able to reach any knowledgeable person at Central Alaska Utilities. As to National Bank of Alaska, upon your petitioner's visit at the bank premises, the bank was helpful as it could be. Your petitioner impressed upon them the desire to seek any bid for the said shares of pledged stock subject always to the proper acceptance of the said bid in New York. The bank apparently was not sufficiently aware of the significance of the receivership and the effect of the Order and Judgment.

Incidentally, during the preceding Spring of the year 1968, at extensive conferences had between the receivers Mr. Benisch, Tilney and George Brown, repeated estimates as to the value of the shares of Central Alaska Utilities in the range of $3.00 per share were given by Tilney and Brown, and Brown in fact stated that $3.00 was on the low side. It was the purpose of said conferences and as a result thereof, that arrangements were made with George Brown, at the expense of the receivership, to seek out bids for all of the Alaskan securities held by the receivership. Different prices were determined upon and elaborate arrangements were made, reduced to writing by your petitioner, for this employment. Unfortunately Brown did not produce.

Reverting to the 6,509 shares of Central Alaska Utilities, despite the efforts of Brown, Mr. Sassara of Foster & Marshall (stock brokers with an office in Anchorage, Alaska), Tilney, the receivers, and National Bank of Alaska, not a single bid had been received for the sale of the stock to December 10, 1968.

On December 10, 1968, Mr. Rasmuson, the chairman of the board of National Bank of Alaska, called your petitioner on the telephone and discussed the foregoing subjects, indicating that unless the receivers authorize the sale of the stock at any price sufficient to satisfy the bank (the injunction having been in force almost one year) the bank would bring on an application to lift the injunction. As noted elsewhere in this report, Tilney was kept fully advised of all activities of the receivers on a current basis.

Your petitioner thereafter received a letter from the bank dated December 23, 1968 stating that a firm offer of $1.00 per share for the 6,509 shares had been received, and that the bank was instructed to submit this as a firm bid. However, the letter went on to state that Tilney had been in the bank (in Alaska) a few days before, had discussed his loan and had "requested a letter from (National Bank of Alaska) as to the agreements reached during that interview." The bank sent a copy of said "agreement as it was reached."

The substance of this "agreement" was so surprising that your petitioner was required immediately to caution National Bank of Alaska as to any acts in reliance upon

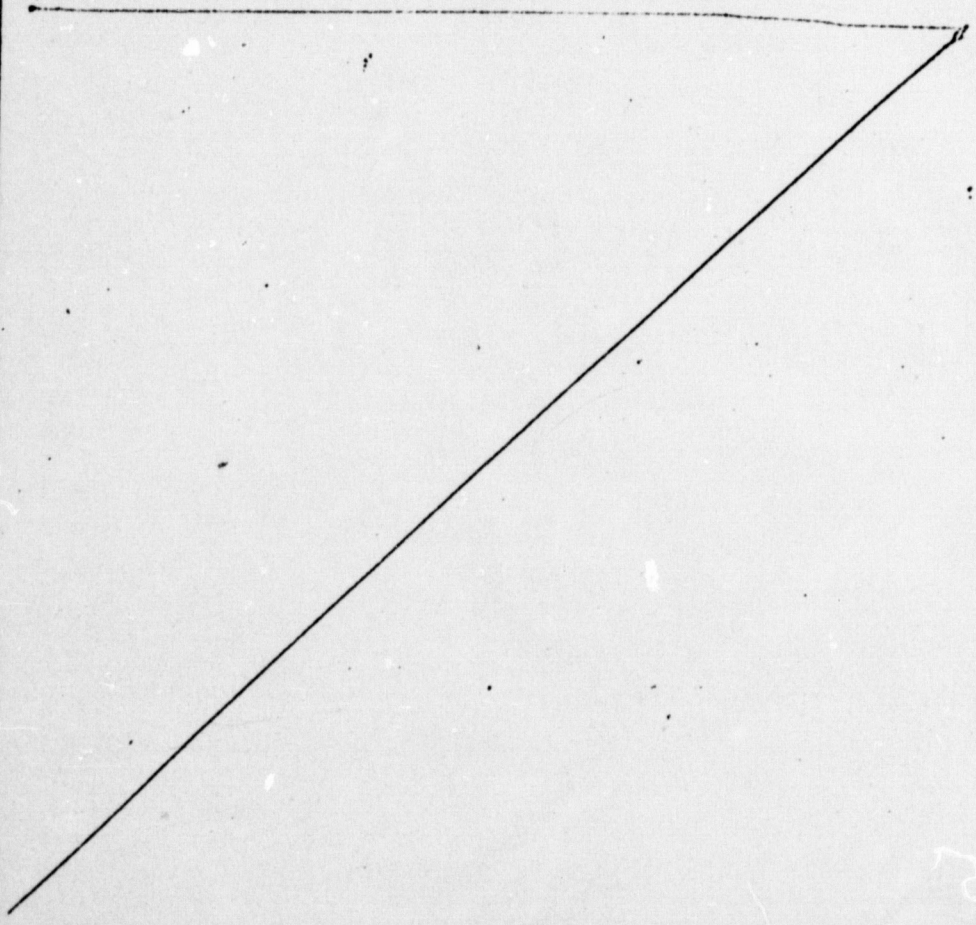
agreements entered into by Tilney with respect to any and all property owned by Tilney at the time of the appointment of the receivers, and that the proceeds of the sale of any such property can be used by a pledgee bank only to pay claims recognized by the receivers as having been in existence on the date of appointment. It was pointed out that Tilney could not agree to subject property in the control of the receivers to liabilities or obligations newly created or assumed by Tilney.

With respect to the $1.00 per share bid, request was made to keep the bid open until January 15 so that the receivers and their counsel could confer concerning acceptance. The bid was withdrawn. As a result of the foregoing, the written opinion of counsel was requested as to the authority of the receivers to sell, and such a written opinion in the affirmative dated January 31, 1969 was received by the receivers from counsel.

Subsequent correspondence with National Bank of Alaska continued to impress upon said bank the desire to obtain a bid for the subject shares of stock, and the bank acknowledged that only the $1,000 loan, and accrued interest thereon, if any, would be satisfied out of any proceeds.

Further lengthy correspondence was sent by your petitioner to Central Alaska Utilities, with a copy to the United States Attorney's office in Anchorage requesting said official's cooperation, and finally your petitioner received from said corporation a letter and a copy of financial

statements dated 12/31/68. At the same time said correspondence received from said corporation revealed that Mr. Tilney had been in telephone communication with the President of that corporation also. At about the same time your petitioner had been making inquiries among several nationally known brokerage firms concerning prospects of the purchase or condemnation of the assets of the corporation by the municipality, Greater Anchorage Area Borough. Your petitioner read and examined the financial statement referred to above prepared by Peat, Marwick, Mitchell & Co., the stockholders report dated August 8, 1969 and such other written material as had become available. All of this correspondence and reports are available for examination in the files of your petitioner.



MATANUSKA VALLEY BANK

At the commencement of the receivership, the receivers were advised by reading the voluminous Tilney schedules that the Tilney firm owed Matanuska Valley Bank the sum of $66,000 against which loan said bank held as collateral 1800 shares of stock of Alaska State Bank, $46,094 debentures issued by City Commerce Corp., and 69,268 shares of common stock of City Commerce Corp. Said bank was located in Anchorage, Alaska.

Your petitioner prepared and sent a lengthy letter to said bank advising it of the receivership, requesting payment of proceeds of all bank accounts and deposits at said bank owned by the Tilney firm or Tilney, advising said bank to stop transfers of any shares of stock issued by said bank in the name of the Tilney firm or Tilney, transmitting and requesting re-registration of shares of stock of said bank then registered in the name of someone other than Tilney or the Tilney firm, requesting information or assistance as to the possible liquidation or sale of the shares of stock of said bank under the control of the receivers, etc. An extensive correspondence then commenced between your petitioner and Robert N. Reeves, Vice President and General Counsel of said bank. At times, your petitioner was required to call Mr. Reeves on the telephone in order to prevent threatened actions which your petitioner deemed improper and prejudicial to the receivership.

An additional problem arose when your petitioner discovered that said bank had honored checks drawn against

the bank account of the Tilney firm by an employee of the Tilney firm, George R. Brown (an authorized signatory), but after the commencement of the receivership.

In all of the foregoing your petitioner kept Tilney fully and currently advised. As noted elsewhere in this Report and Petition, there was for a long time the very closest cooperation between the receivers and Tilney. In retrospect, it is clear that there was too much cooperation and consideration given to Tilney, his opinions and great expectations.

In questioning Tilney as to the possible liquidation of the substantial holdings of stock of said bank controlled by the receivers, your petitioner was advised with respect to a Mr. Robert A. Baker, a person who had resigned as President of said bank on June 30, 1967. Mr. Baker had come into a position of control of said bank in March of 1952.

Tilney advised your petitioner that Mr. Baker owned a very substantial number of shares of stock of said bank. Your petitioner and Tilney descussed all of the ramifications of this situation in an endeavor to find an avenue to liquidate the holdings of the receivers in conjunction with the holdings of Mr. Baker. In addition to a lengthy written proposal prepared by him for presentation to prospects, Tilney addressed a very lengthy letter to Mr. Baker in which, among other things, he stated:

"Among the assets which I hold in the name of Tilney & Company, my own and the family's are 4,293.8 shares of Matanuska Valley Bank which represent a substantial holding but not of particular interest as far as control is concerned.

"My receivers, two very excellent attorneys, as well as practical businessmen, understand the situation as regards the Matanuska Valley Bank stock holdings. They, of course, could observe from our books the arrangements we had with Keith Lesh and I have disclosed generally to them your position and the outline of your suggestion of being in a position to offer control of the bank for approximately the cost of 25% of the outstanding shares.

"They believe that there is a good possibility that such a transaction could be put together and are anxious that I meet with you to discuss the arrangements which we could make to our mutual advantage.

"Naturally if I can help work out a satisfactory arrangement for you and some of the others there would be a fee involved. Be assured that I would in no way shop the deal but would work with the greatest discretion. Your ideas of the type of interest you would like to see in the picture would be adhered to scrupulously."

Your petitioner attempted directly to reach Mr. Baker by phone and by correspondence but without success. Thereafter your petitioner learned that the continuing management of the bank, other than Mr. Baker, had entered into some transaction with Mr. Baker, acquiring some of his shares but not all, at a price of $25.00 a share. In anticipation of your petitioner's trip to Alaska in the latter part of August 1968, your petitioner wrote an extensive letter to the then President of the bank, Albert C. Swalling (the head of the group alleged to have bought stock from Mr. Baker), advising him of the intended visit.

During your petitioner's trip to Anchorage, Alaska, he and Mr. Reinsch conferred with Mr. Swalling, Mr. Reeves and Mr. Peel, another Vice President of the

bank, and indicated to them that the receivers would expect the greatest cooperation in straightening out the relationships between the bank and the receivership estate, and in assisting the receivers in liquidating the shares of stock of the bank.

Subsequently, during the Fall of 1968 and the Winter of 1969, as a result of the liquidation by your petitioner of a portion of the collateral held by said bank, the loan of the Tilney firm was paid off, and the receivers received the surplus cash and collateral. Your petitioner was successful in obtaining from said bank a re-crediting to the receivers' account of all charges, including service charges and checks honored upon the signature of George R. Brown, from a date even prior to the date of the receivership. Your petitioner obtained corroboration of the proper debits and credits to the loan account from the accountants for the receivers.

When the collateral and underlying instruments were returned by said bank to your petitioner, your petitioner noted that a promissory note in the face amount of $78,000 held by said bank had actually been made by Tilney & Co. Inc., not the Tilney firm. This was brought to the attention of the bank and of all other interested parties, including the accountants and your petitioner requested an analysis of the circumstances surrounding the apparent making of a substantial loan by said corporation but secured by collateral of the Tilney firm.

CITY OF NOME

One of the most serious problems facing the receivers was the possible claim of the City of Nome, Alaska, arising out of an underwriting arrangement for $910,000 entered into by the Tilney firm with said City. This underwriting arrangement, which went back several years prior to the commencement of the receivership, was perhaps the most serious item insofar as Tilney was concerned, as stated by Tilney orally and in writing many times. At the same time Tilney maintained that GSC was a bona fide creditor of the City of Nome for fiscal services allegedly rendered and disbursements incurred in connection with the same underwriting.

The voluminous material in the Tilney files relating to the City of Nome and the proposed underwriting was studied by your petitioner; and from time to time additional voluminous material prepared by Tilney, seeking to suggest ways for the City to escape its dilemma, was also studied. In reliance upon the firm underwriting by the Tilney firm, the City had sold bond anticipation notes. The Tilney firm having defaulted in buying or arranging the sale of $910,000 of bonds, the City had defaulted in the repayment at maturity of the bond anticipation notes.

As noted in the extracts from the time records of your petitioner, your petitioner participated in conferences and negotiations with attorneys and personnel representing the City of Nome seeking a favorable resolution of all possible claims.

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A short time prior to your petitioner's trip to

Alaska, the City of Nome commenced a law suit seeking more than $2,000,000 in damages from the receivership estates, GSC and Mrs. Dorothy M. Tilney. While in Anchorage, Alaska, your petitioner and Mr. Benisch spent considerable time conferring and negotiating with Roger Cremo, Esq., the attorney of record in said law suit for the City of Nome, seeking an amicable resolution of the said suit and evaluating the strength of the plaintiff's claim. Unless said law suit could be settled, and settled for a reasonable amount, the closing of the receivership estates would have been indefinitely delayed, and it also might have been virtually impossible to close said estates with all creditors being paid in full.

During your petitioner's trip to Alaska, your petitioner flew to Nome, Alaska, and conferred and negotiated with the Manager of the City of Nome and the local attorney for the City of Nome concerning a possible settlement of the law suit and the claims of all the parties thereto.

Mr. Benisch and your petitioner, while in Anchorage, Alaska, conferred with D. A. Burr, Esq. of the firm of Burr, Boney & Pease, and said firm was retained to represent the receivers and later the other defendants, in the said law suit. Your petitioner related to Mr. Benisch the exact substance of his conference and negotiations with the City Manager and the City's attorney while in Nome. As a result of the evaluations made by Mr. Benisch and your petitioner of the strength of the plaintiff's causes of action and the spirited exposition of the possible defenses recited to Mr. Cremo at our negotiations,

Mr. Benisch and your petitioner felt that the law suit could be settled by the payment of not more than $20,000 to the City of Nome and the waiving by GSC of its claim for services and disbursements incurred in connection with the abortive underwriting. Thereafter, and for some time, Tilney indicated that he would not approve of any such settlement, that it was exorbitant, that there were good defenses or counterclaims to the law suit, etc.

Mr. Burr prepared and served an answer and counterclaim, and Mr. Cremo filed a reply. For a more detailed analysis of the situation, the Court's attention is respectfully directed to the petition filed therein for authority to settle the law suit as hereinafter referred to.

Ultimately, after a hearing in this Court and with the authorization obtained therein embodied in an order dated April 15, 1969, the said law suit and all claims therein were settled in consideration of the payment of $20,000 by the receivers to the City of Nome and the discontinuance with prejudice by GSC of its counterclaim. Inasmuch as GSC owed the Tilney firm more than $600,000 and was insolvent, the receivers agreed to credit GSC's debt due to the Tilney firm in the sum of $44,000 as more specifically provided in the aforesaid petition for authority, so that on the record GSC received some consideration for the discontinuance of its claim against the City of Nome.

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ALASKA STATE BANK AND CITY COMMERCE CORP.

The problems of the receivership with respect to the Alaska State Bank were generally as follows. The receivers had control of a substantial block of stock of said bank. The receivers also had control of a substantial number (76,697) of shares of common stock of City Commerce Corp., a bank holding company which in turn controlled Alaska State Bank. The receivers also had control of $55,844 debentures issued by City Commerce Corp. The Chairman of the Board of the bank and the Chairman of the Board of the holding company was one and the same person, to wit, Mrs. Brideen Crawford, who controlled the holding company by her ownership of a clear majority (over 2,000,000 shares) of the outstanding common stock of said holding company. In addition, City Commerce Corp. owned and was the landlord of the building in Anchorage, Alaska, in which the Tilney firm and GSC shared an office.

During the early stages of the receivership, the receivers were able to sell small lots of stock of Alaska State Bank through the cooperation of personnel of said bank. Your petitioner prepared and maintained the extensive correspondence to said bank, and to the pledgee banks, so as to effectuate delivery and obtain payment for the shares sold from time to time.

In the Spring of 1968, the bank advised that they were considering selling additional capital stock which caused further complications. At the same time, this

indicated to your petitioner that an opportunity might be created to force a bulk purchase of the shares in the receivership estates. Incidentally, attempts were constantly being made by your petitioner to seek customers elsewhere for part or all of said shares, in the same manner as all other securities and assets held by the receivership estates. In addition to well-recognized Wall Street firms, your petitioner had telephone conversations and negotiations and written correspondence with Alaska State Senator Carl Brady (a director of Alaska State Bank), in connection with the possible sale of stock of Alaska State Bank and the securities held by the receivers of the other Alaskan entities, e.g., Matanuska Valley Bank, City Commerce Corp. and others.

In dealing with Mrs. Crawford, your petitioner had extensive correspondence, and also misunderstandings. Mrs. Crawford bid $31.00 a share for the block of shares of Alaska State Bank controlled by the receivers, which bid was rejected. Subsequently Mrs. Crawford increased the bid to $32.50, which bid was also rejected.

During your petitioner's trip to Anchorage, Alaska, your petitioner conferred and negotiated with Mrs. Crawford, the president of the bank, and others, concerning the block of shares of stock of the bank controlled by the receivers. Your petitioner also attended at the special stockholders meeting at which authority was obtained by the bank to increase the authorized common stock and to sell

additional shares at $38.00 a share. Upon his return to New York, your petitioner effected a sale of 150 shares at $39 a share to Robert S. Laidlaw (a former employee of Tilney). Your petitioner rejected a bid of $38 a share for the remainder of the shares, 3,529 in number. Thereafter, and as a direct result of the aforesaid conferences and negotiations, further negotiations by telegram, telephone and letters were had and arrangements were finally made with the brokerage firm of Foster & Marshall, Inc. of Seattle, Washington, to sell the entire remaining block of 3,329 shares (less 200 shares) at $39 a share, or $129,831. Your petitioner arranged for the delivery of all of these shares (which were held by various pledgee banks, etc.) against the receipt of payment.

Tilney, acting on behalf of Tilney & Co., Inc., made claim to an additional 200 shares of stock of Alaska State Bank in the hands of the receivers (now increased by 20 shares as a result of a 10% stock dividend). It was the judgment of your petitioner that the risk from retaining said latter shares pending the resolution of the claim of ownership and the resolution of the mutual debits and credits between said corporation and the Tilney firm was minimal, and the said shares were not sold.

City Commerce Corp.

As noted in the foregoing material relating to Alaska State Bank, the receivers came into control of 76,697 shares of stock of City Commerce Corp. and $55,844

of debentures of said corporation, which corporation in turn controlled Alaska State Bank. City Commerce Corp. also was the landlord with respect to the office in Anchorage, Alaska, of the Tilney firm and GSC. At the time of the commencement of the receivership, there was $440.00 of unpaid rent due to the landlord with respect to said office.

In attempting to liquidate the securities of City Commerce Corp. and in dealing with the landlord, your petitioner had many telephone calls and very extensive correspondence with Mrs. Briden Crawford.

As to the office space in Anchorage, Alaska, your petitioner worked out arrangements with City Commerce Corp. whereby the landlord would be paid for the use and occupation of the office space for two months as an administration expense, of $440.00 plus $90.00 for cleaning fees, and the landlord would file a claim in the receivership of the Tilney firm only for the rents accrued up to the date of the commencement of the receivership. All other charges for the space for the period from and after the commencement of the receivership would be pressed solely against GSC. These arrangements were agreeable to the receivers and Tilney by reason of the fact that Tilney had insisted that the space be maintained on behalf of GSC for a longer period of time than the receivers felt necessary. Your petitioner persuaded the landlord to accept these arrangements and after voluminous correspondence, a written release, dated September 30, 1968, was obtained, signed by City Commerce Corp, releasing

the receivership estates from any claims from and after December 18, 1967.

While in Anchorage, Alaska, your petitioner and Mr. Benisch went through all of the massive volumes of unopened mail and the files in the office, disposed of whatever was not useful, arranged for the sale of the few pieces of furniture and fixtures and the surrender of the space, and arranged for the transmittal to New York of files which might prove useful to the receivers or other authorities interested in this matter.

In the winter of 1969, Tilney visited Anchorage, Alaska, and had conversations with Mrs. Crawford (as well as with officers of other institutions with which the receivers still had to deal). At that time, your petitioner was suddenly confronted with a situation whereby City Commerce Corp., the obligor on $55,844 of 7% debentures held by the receivers, had set off the sum of $1,760 against a semi-annual interest payment of $1,954.54 due January 1, 1969, claiming that the former sum was due for rents from November 1967 through August 1968. Upon inquiry, your petitioner was advised that this act of City Commerce Corp. was based upon the talks and correspondence had between Mrs. Crawford and Tilney. Your petitioner was advised that Tilney had stated to Mrs. Crawford that everything was working out well, that he would soon be restored to full control of the securities of City Commerce Corp., and that the interest payment on the debentures would cover all of the amounts due as rent to City Commerce Corp.

This was completely at variance with the express agreement and arrangements made by your petitioner with the landlord months before. It should be pointed out that the foregoing complication arose while Mrs. Crawford and your petitioner were again negotiating the possible sale of all of the securities (equity and debt) of said corporation held by the receivers. Your petitioner stated at that time, and repeats again, that Tilney's acts served to interfere with and obstruct the receivers in the performance of their duties, functions and responsibilities. Apparently, it was constitutionally impossible for Tilney to remain subdued for any length of time. Nevertheless Tilney's conduct caused third persons, prospective bidders and others, either not to contact the receivers or not to take too seriously the negotiations or invitations to negotiations which did occur.

As noted, as a direct result of Tilney's acts, the landlord set off the unpaid rents of $1,760 and the matter was brought to the attention of the co-receiver and counsel. It was pointed out that City Commerce Corp. had waived this right of set-off (in addition to the express written agreement embodied in the release) by paying the full interest on the debentures on both January 1, 1968 and on July 1, 1968, dates after the commencement of the receivership and after the rents had become accrued and unpaid. This is one prime example of the interference by Tilney with the performance by the receivers of their

functions and duties, the necessary results of which were a massive increase in administrative efforts, time and expenses, not to mention a decrease or delay in collection of the assets available to the receivers.

As to the liquidation of the securities of City Commerce Corp., Tilney was not able to furnish any significant financial information based upon which an informed judgment could be made as to the underlying value of said securities. From time to time, Tilney expressly agreed that he would acquiesce in the sale of said securities at varying prices. However, except for one deal made with Mrs. Crawford (which fell apart by reason of her obstinacy), it was impossible to find a market for the securities except as hereinbelow set forth.

While your petitioner was in Anchorage, Alaska, extensive discussions were had with the officers of City Commerce Corp., eliciting current information concerning the affairs of the company. Financial statements prepared by Peat, Marwick, Mitchell & Co. as of October 31, 1967 and addressed to the Division of Banking of the State of Alaska were obtained for the files of the receivers, and were closely studied and analyzed by your petitioner. As a result of studying the elaborate financial statements prepared by Peat, Marwick, Mitchell & Co. and studying the form of the debentures actually held by the receivers, a discrepancy was discovered. Your petitioner corresponded with the said accounting firm and with the Division of Bank-

ing. The accounting firm admitted its error in the preparation of the footnote. Later financial material was received and studied by your petitioner.

Subsequently, beginning in the winter of 1969, concommitantly with rumors concerning a transfer of control from Mrs. Crawford to others, some trading began to take place in the common stock of City Commerce Corp., and with the express acquiescence of Tilney, the receivers began to liquidate the common stock. We started selling at a price of 18¢ a share, and were liquidating shares at 45¢ a share in June 1969 when Tilney began again to promulgate some vague and complicated plans looking to a culmination of the receivership in one fell swoop by reserving most of the assets for transmittal, outright or as collateral, to Mrs. Tilney and his children alleged to be the majority of the creditors. He caused the liquidation to cease.

After the withdrawal by your petitioner as receiver, your petitioner continued to cooperate to the greatest extent with Mr. Hogan and Mr. Benisch in making his files available and in giving them the benefit of the many analyses previously made by your petitioner with respect to different matters, such as the underlying values of the securities of City Commerce Corp. Your petitioner strongly advocated the continued liquidation of the securities of City Commerce Corp., and in particular the common stock thereof, at the price range to which the stock had climbed.

EXPENSES

In the performance of his duties, your petitioner incurred the following expenses and disbursements, and was partially reimbursed as shown below, leaving a balance of $534.66 for which reimbursement is requested.

Expenses incurred:

Long distance calls	$528.29
Overtime steno charges	175.50
Western Union	22.09
Airfare to Anchorage and return	380.86
Airfare from Anchorage to Nome and return	147.00
Hotel expenses in Alaska	208.46
Misc. travel expenses to airports and parking, and in Anchorage, Fairbanks and Nome	127.50
Food and expenses in Alaska	79.38
Freight charges for files to N.Y.	50.60
Misc. out-of-pocket expenses for fares in N.Y., phones, postage, photocopies, stationery, messenger services, etc.	365.02
	$2,084.70

Reimbursed:

Check to Travel Agency	$561.21	
Check to Livingston, Livingston & Harris	988.83	1,550.04
Unreimbursed expenses		$ 534.66

Although the attached Schedule sets forth the almost daily involvement of your petitioner in the performance of his duties herein, the time spent, to wit, 884.7 hours to the date hereof, and the matters taken care of, your petitioner would also like to record that the number of pages of schedules, status reports, suggestions, etc., received from time to time just from Tilney himself (with differing

statements and values contained therein) and which your petitioner had to study, analyze and try to keep in mind, numbered more than 300. This did not include additional hundreds of pages of financial information relating to Tilney and his interests, studied by your petitioner, which had been prepared prior to the receivership, were submitted to the S.E.C., were filed as income tax returns, were prepared by the accountants for the receivers, etc. Your petitioner dictated and sent out hundreds of pieces of correspondence, and received and read and analyzed hundreds of pieces of correspondence. Your petitioner attended at all hearings and conferences in court, and made reports and participated therein; and participated with counsel in all matters in which counsel was engaged. In addition, there were constant telephone calls and conferences requiring the closest attention of your petitioner to every word and phrase of Tilney, noting the inconsistencies, the half-truths, the leads to assets, the answers to claims, and all at the same time attempting to convince Tilney to acquiesce in sales or to conduct himself in a manner not at odds with the work of the receivers. In short, your petitioner, and his office staff, could do little else but work onthis receivership during the course thereof, and work under "adversary" conditions at that.

Based upon all of the foregoing facts, and the attached Schedule (884.7 hours to the date hereof), the nature and complexity of the services performed, the results achieved or which could have been achieved through your petitioner's efforts and skills, and the identity and standing

of the persons interested in the estates, it is respectfully requested that compensation for your petitioner in the sum of $57,500 be fixed and allowed as the fair and reasonable compensation for the services rendered. Your petitioner has not made or received any previous allowance. Your petitioner also requests reimbursement for unreimbursed expenses of $534.66 as set forth hereinabove, after giving credit of $1,550.04 of reimbursements against total expenses of $2,084.70.

Wherefore, your petitioner prays that this Report and Petition be passed and allowed; that an order be entered passing and allowing the same as the account of your petitioner and fixing the amount of your petitioner's compensation and expenses in the respective sums of $57,500 and $534.66 and directing the payment thereof out of the receivership estate as part of the costs and expenses of administration thereof, and discharging and releasing your petitioner (and Fidelity and Deposit Company of Maryland as his surety) from his office as Receiver and by reason of his acts and actions therein.

/s/ I. Alan Harris

I. Alan Harris, Petitioner

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STATE OF NEW YORK
COUNTY OF NEW YORK

I. Alan Harris, being duly sworn, deposes and says:

I am the petitioner above named. I have read the report and petition for allowance annexed and the same is true to the best of my knowledge, information and belief.

No agreement or understanding in any form or guise exists between me and any other for a division of the compensation to be paid to me in this proceeding.

S/ I. ALAN HARRIS
I. Alan Harris

Sworn to before me this
1st day of May, 1970.

ALAN C. WINICK
Notary Public, State of New York
No. 31-9703740 New York County
Commission Expires March 30, 1972

SCHEDULE

Transcript of time records, and reference to services performed obtained from files, of I. Alan Harris (and Livingston, Livingston & Harris) in the matter of Securities and Exchange Commission, Plaintiff, against Tilney & Company and Frederick Tilney, Defendants

Date		Hours
1967		
12/18	Conference with Hon. David N. Edelstein, U.S.D.J., at Chambers, re nature, complexity and background of proceedings, review of salient facts, inquiry as to availability of extensive time and effort to be required, etc.	2
12/19	Phones: to and from Joseph C. Hogan, Esq., co-receiver re obtaining of surety company bond and filing thereof; to Judge Edelstein; to S.E.C.; to Fidelity and Deposit Company of Maryland; surety company. Trip to Clerk's office re entry of Judgment and Order.	1.2
12/20	Trip to Hogan's office for completion of application and surety company bonds; attendance at office of Tilney & Company, 1 Wall Street, and conference and meeting with Hogan, Tilney and William Clarke, Esq. of Cadwalader, Wickersham & Taft (3.5). Trip to Clerk's office and filing of bond; obtaining certified copy of Judgment and Order, and preparation of multiple copies for certification by attorney pursuant to C.P.L.R. and distribution (2).	5.5
12/21	Review and study of papers, statements and schedules received or obtained from Tilney, S.E.C. or files.	2
12/23	Continued review and study at home.	2.5
12/27	Phones: with Hogan, New York Telephone Company re past due bills and termination of service, and Irving Trust Company (Landlord of 1 Wall Street) re past due rents.	.6
12/28	Long distance phone from Sgt. Clukey, customer of Tilney & Company (.2). Trip to 1 Wall Street and office of Tilney & Company; conference with Hogan; review of records and files; opening of safe deposit box at Irving Trust Company, 1 Wall Street, and change of authorized signatures thereto; examination of contents of box; review of	

1967		Hours
12/28 cont.	correspondence to firm and taking possession thereof, including dividend check; phones to New York Telephone Company and Tilney (8.5).	8.7
12/29	Trip to 1 Wall Street; review of mail; conference with Tilney and Bendix; and phones with New York Telephone Company to work out method of retaining service.	1.8
1968		
1/2	Meeting and negotiations at office of Cadwalader, Wickersham & Taft with Hogan, Clarke, Tilney and Mr. Glotfelty, Manager of City of Nome, re claim of City for breach of underwriting agreement by Tilney & Co. Trip to office of Tilney & Company with Hogan; review of mail, dividend checks, schedules of assets, letters, etc. Phones to Bankers Trust Company and Long Island National Bank, pledgee banks; phone to B. Bernard Greidinger & Co., accountants.	5
1/3	Phone conference with Hogan (.3). Phone conference with Irving Trust Company, landlord, re accrued rent of $6,420.75 (.2). Correspondence to Bankers Trust Company re sale of securities (.3). Certification of copies of Order and Judgment (.3).	1.1
1/4	Conference with Messrs. Greidinger and Klein, accountants, re employment by Receivers and nature of proceeding; examination, service and delivery of worksheets, statements and schedules (1.5). Receipt and review of letters from landlord, Irving Trust Company; review of letter to Bankers Trust Company; phone to S.E.C.; phone conference with Tilney and Hogan (1.3). Drafting of demand letter to Bache & Co. at request of Tilney to cease and desist from interfering with attempts to place bonds of City of Nome and thus eliminate claim or minimize damages; and phone conference and review thereof with Hogan (1.2). Phone negotiations with Mr. Kelly of New York Telephone Company re non-termination of service and past-due bill (.4).	4.4
1/5	Meeting and negotiations at Marine Midland Grace Trust Company with Hogan, John Money, Senior Vice-President of bank, and Sullivan & Cromwell, counsel to bank, re injunction, and discussions of progress at liquidation of pledged securities, estimate of future progress, and intention of bank to file Notice of Appeal (2).	

1968		Hours
1/5 cont.	Conference with Hogan at lunch (1.5). Trip to 1 Wall Street and attendance at office of Tilney & Company to 9 P.M.; pick up and review of incoming mail; phone with Mr. Zorn of Bank of Suffolk County re sale of stock; conference with Mr. Cataletto, Vice President of Irving Trust Company (landlord) re office; phone conferences with Mr. Brown (employee) in Juneau, Alaska and with Mr. Kinnard, President of Alaska State Bank, in Anchorage, Alaska re sale of stock; review and study of papers, etc. (7).	10.5
1/8	Phones: from Mr. Kelly of New York Telephone Company re termination of service; to and from Tilney; from Hogan; to Klein.	1
1/9	Dictate letters (.7) Phones from Tilney (1). Review of material in files (.5). Phone to Mr. Zorn (Bank of Suffolk County) arranging and confirming sale of 974 shares of stock of Bank of Suffolk County for $98,175 pledged with Marine Midland (.3). Phones from Tilney; phone to Mr. Dinkelacher of Long Island Trust Company; conference with Hogan; dictation (1.5).	4
1/10	Phones to and from Tilney (1.1). Phones to Mr. Zorn re sale of additional 130 shares of stock of Bank of Suffolk County for $13,000 pledged with Marine Midland, and to Mr. Dinkelacher (.4). Phone to Messrs. Zalkin & Cohen, Esqs., attorneys for First National City Bank (.3).	1.8
1/11	Phones from Tilney (.7). Phone to Zalkin & Cohen re law suit of First National City Bank v. Tilney & Company (.2). Phone from David M. Berenson, attorney for Marine Midland Grace Trust Company of New York, re suit and judgment against Governmental Statistical Corporation, and phones from and to Mr. Ryan of Marine Midland (.8). Correspondence to Marine Midland, The Waddington Bank, Matinecock Bank; analysis of material in files; research of law (4.9).	6.6
1/12	Review of mail and correspondence; phone from customer; phone to Mr. Hogan and Mr. Laidlaw re liquidation of stock (.8). Phone from Tilney (.6). Research of law and conference with law associate (1.5).	2.9

1968		Hours
1/15	Phone to Mr. Bellingham, President of Matinecock Bank re sale of stock.	.1
1/16	Phone conference with Hogan (.3). Phone to Klein, accountant (.1). Conference at S.E.C. (2). Conference at Tilney & Company (1.5).	3.9
1/17	Phone from Mr. Laidlaw re missing stock.	.1
1/18	Conference at 1 Wall Street with accountants (2.7). Review of files (1.7). Phone from Tilney (.4).	4.8
1/19	Phones from Tilney, Hogan, Mr. Zorn and Mr. Watkins in Texas (.9). Correspondence and filing by law associate with Clerks of District Courts, District of Alaska and Eastern District of New York (.8).	1.7
1/23	Phones from Tilney.	.6
1/24	Phones from Tilney and Mr. Maney of Marine Midland.	.3
1/25	Phone conference with Hogan (.3). Phone from Tilney (.3).	.6
1/26	Trip to 1 Wall Street and attendance at office of Tilney & Co.	3.5
1/29	Phone from Mr. Laidlaw (.1). Phone from Francis J. Quillinan, Esq. re retention of Messrs. Wagner, Quillinan and Tennant, Esqs., as attorneys (.1). Phones to Berenson, and Mrs. Tilney re required modification of corporate resolution re settlement (.4). Preparation of letters to Marine Midland and Long Island National Bank (.5).	1.1
1/30	Review correspondence (.2). Phone from Mr. Roberts of Marine Midland (.2). Phone to Mr. Dinkelacher (Long Island Nat'l.Bk.)(.2). Phone conference with Hogan (.2). Phone from Tilney (.6). Conference with Mr. Quillinan and phone from Tilney (2.5).	3.9

1968		Hours
1/31	Phones from Mr. Robbins (.3). Phone conference with Hogan (.3). Phones from and to accountants (.2). Correspondence re sale of securities (.5). Phone from Tilney (.3).	1.6
2/2	Phones from Mr. Green, Internal Revenue Service (.5). Phone from Quillinan (.1). Phone to Laidlaw (.3). Phone conference with Hogan (.3).	1.2
2/5	Phone to Mr. Rieger (L. I. Nat'l. Bank).	.1
2/7	Conference at 1 Wall Street office with Hogan, counsel, accountants and Tilney.	6
2/8	Phone from Tilney (.3). Phone to Tilney (.3). Phone conference with Benisch (.4). Phone from Tilney (.3).	1.3
2/9	Phone conference with Benisch re stipulation discontinuing appeal from injunctive order of Marine Midland (.3). Phone from Tilney (.2).	.5
2/12	Phone to Klein (.1). Correspondence to prior accountants and re First National Bank of Yonkers; review of correspondence (.4).	.5
2/13	Phone conference with firm of Sullivan and Cromwell re stipulation discontinuing appeal from Judgment and Order (.2). Phone from Benisch (.1). Conference and meeting at 1 Wall Street office with Tilney, attorneys, accountants and others (6.5).	6.8
2/14	Phones to and from accountants (.4). Correspondence to banks (.5). Phones to and from Tilney and Laidlaw (.3). Phone conference with Judge Edelstein (.2). Phone conference with Hogan (.4).	1.8
2/15	Review letter and draft from Benisch (.2). Phones from and to Laidlaw and Zahl (accountant); to Irving Trust Company re liquidation of Advisers Fund, to Francis I. duPont & Company re solicitation of bids for securities (1.2). Phone conference with Klein (.3). Phone conference with Benisch (.5). Phones to and from Tilney (.6). Letter to Steadman American Industries Fund re-redemption of shares of stock (.2).	3

1968		Hours
2/16	Phones to Tilney and S.E.C.; phone from Zahl; correspondence re meeting and sale of securities (.9). Phone to Vice President of National Bank of North America re solicitation of bids for securities (.3). Phone from Franklin National Bank re loan and liquidation of pledged securities (.2). Trip to 1 Wall Street; supervision moving;. letter to Irving Trust Company (Landlord); locking of files; visit to safe deposit bos and removal of securities for sale; notice and trip to Post Office (1.7).	3.1
2/19	Correspondence and phone from Tilney (1.8). Phone from Tilney (.5).	2.3
2/20	Phone from Messrs. Zalkin & Cohen re lawsuit of First National City Bank v. Tilney & Company (.2). Work on redraft of letter to all customers and creditors; phone conference with Hogan; review of mail; letter to Tilney; phone conference with Benisch (2.2).	2.4
2/23	All-day trip to Hicksville, L. I. with Hogan; conferences and meetings with Tilney and Zahl (accountant); meeting and discussion with Dinkelacher, Vice President at L. I. Nat'l. Bank; trips to and examination of parcels of real estate and home of Tilney ("Sundown"); etc.	10
2/26	Phone from Tilney (.3). Phone discussion with Mr. Bennett of S.E.C. re D. Raymond Kenney & Co. (.2). Review of mail and discussion with Zahl; phone conference with Benisch re revision of letter to customers and creditors; phone conference with Hogan re-approval of revised letter (.3). Conference with Benisch; review of activities on 2/23; review of letter to customers;discussion re pleadings against Kenney; phones to Tilney and Hogan (2.6).	3.4
2/27	Attendance at hearing at Federal Court and presentation of report on status and progress of the receivership (7.2). Evening meeting and negotiations with Jack H. Studley re solicitation of bids for purchase of securities (1).	8.2

1968		Hours
2/28	Review of mail (.3). Phone conversation with Tilney (.5). Phone from Mr. Hendrickson of Messrs. Payne, Wood & Littlejohn re solicitation of bids for possible purchase of stock of Matinecock Bank and arrangements for meeting with president of bank (.2). Review of files and phone to Tilney (1.4). Phone from Long Lines Dept. of AT&T (.2).	2.6
2/29	Review mail and dictate correspondence; phone from Tilney (.6). Phones to and from Tilney, Hogan, Zahl and continued dictation (1.6). Phone from Tilney and other phone calls including phone conference with Benisch, and continued dictation (3.3).	5.5
3/1	Review of mail and dictate correspondence (1.7). Conference with Tilney and Laidlaw (.6). Phone conferences with Benisch and Hogan; review of files and continued dictation (3.3).	5.6
3/4	Phones to Tilney and Zahl(.4). Analysis of files (2). three phone conferences from Tilney (1).	3.4
3/5	Review of proposed contract of sale of East Norwich property i/n/o Tilney; receipt and review of letter of Morris Shapiro, Esq., attorney for Franklin Nat'l. Bank; prepare delivery of stock of East Islip Bank to receivers' bank for delivery on sale (1.5). Phone conference with Hogan (.3). Phone conference with Mr. Bennett of S.E.C. re Kenney (.2). Phone conference from Tilney re National Bank of Alaska, Franklin National Bank, Alaska State Bank, and other matters (.4). Phone negotiations with Mr. Burke of Hall & Casey re contract and proposed sale of East Norwich property (.7). Dictate correspondence re National Bank of Alaska (.4). Review of deeds (.3). Phone conference with Mr. Devoe of Bankers Trust Company (.2). Phone conferences from Tilney (1).	4.6

1968		Hours
3/6	Review mail and dictate correspondence (.7) Phone conference with Hogan (.3). Phones to New York State Banking Department, Francis I. duPont & Co. and Mr. Hendrickson (.6). Trip to New York State Bank of Department re New York bank stocks; trip to Francis I. duPont & Co. and discussion re sale of securities; trip to safe deposit box (4.5). Phone conference with Benisch (.3). Phone to Mr. Hendrickson (.2). Phone conference from Tilney (.3).	6.9
3/7	Review mail; phones to Benisch, Hogan, Klein and Zahl; finish dictation, endorsed certificates; phone to Manufacturers Hanover Trust Co.; and phones from Hogan and Mrs. Laidlaw (1.7). Phones from accountants and phone to Manufacturers Hanover Trust Company; signing stock powers (2). Conference with Benisch re sale of securities and some of Alaskan problems (1.5). Analysis and review of affairs (1). Phone conferences from Tilney (.9).	7.1
3/8	All-day trip with Hogan to offices of Messrs. Payne, Wood & Littlejohn in Glen Cove, L. I., and meeting and negotiations with Mr. Hendrickson of firm and Bellingham, President, re solicitation of bid for purchase of shares of Matinecock Bank, trip with Hogan to Hicksville and conference and meeting with Tilney, Laidlaw and accountant; meeting and negotiations with manager of City of Nome, an official of the Governor's office of the State of Alaska, and Donald L. Holman, Esq. of Seattle, Washington; conference and meeting with Hogan, Tilney and accountant to 7:30 p.m.	10.5
3/11	Review of mail and dictate; phone to New York State Department of Labor; phone from Francis I. duPont & Co. (1.7). Phones to Hogan, Benisch, Bankers Trust Company and phone from Tilney, correspondence and work on files (5). Correspondence to National Bank of Alaska and Alaska State Bank (.5).	7.2
3/12	Review mail; phones with Tilney, Dinkelacher, Francis I. duPont & Co., Black of Grande & Co. (Seattle) and Gutterman of Franklin & Co.; work on correspondence (2.8). Study files and phone conference with Benisch (1). Read and sign correspondence and phone conf. with Hogan (.7) Phone from Tilney (.4).	4.9

1968		Hours
3/13	Phones from Tilney and Agent from Department of Unemployment (.4). Phone from Tilney re City of Nome (.3).	.7
3/14	Phone from Tilney (.3). Phone from Equitable Life Assurance Company re mortgage on Sendown and insurance policy (.3). Miscellaneous phone calls solicitation of bids for purchase of stock of Matinecock Bank (.5). Research of Law (.4). Conference and meeting with Hogan, Benisch, Tilney and accountant (4).	5.5
3/15	Review mail and dictate correspondence (.8). Phone conference from Hogan (.5). Phones from Tilney (.8).	2.1
3/18	Trips to Hogan's office, to Morgan Guaranty Co. and Cities Service Company re transfer of securities; and to Francis I. duPont & Co. (for discussions and solicitation of bid for purchase of securities)(2). Review of mail (.5). Phone call re possible sale of stock (,1). Phones from Tilney and Zahl (.6). Phone conference with Benisch (1).	4.2
3/19	Review mail and dictate correspondence.	2
3/20	Review mail and dictate correspondence	.6
3/21	Trip to Franklin National Bank and meeting and negotiations re injunction, sale of pledged securities etc. with bank officers, its attorney, et al.(2.5). Phones to Shapiro (att'y. for Franklin Nat'l.Bk.), Francis I. duPont & Co. and Tilney (.8).	3.3
3/22	Review mail; phones to Francis I. duPont & Co.; phone to Shapiro; phones to and from Tilney (.8). Dictate correspondence; phones to and from Francis I. duPont & Co. (.7). Phone conference with Hogan (.4). Phone to Francis I duPont & Co. (.2). Phone to Shapiro's office (.2). Phone conference with Benisch (.5).	2.8
3/23	Review of material sent by Tilney	1

1968		Hours
3/25	Review mail and dictate; review confirmations re sale of securities (1.3). Phone from Tilney (.4). Dictate correspondence and phone to Mr. Reeves in Alaska (.9). Additional correspondence (.5).	3.1
3/26	Review mail; phone from Tilney; phone to Manufacturers Hanover Trust Company (.7). Conference with Benisch, Mr. and Mrs. Tilney, Klein, Zahl, Laidlaw and Brown (3.8).	4.5
3/27	Phones to S.E.C. and Franklin National Bank (.3). Phone to Hogan (.3). Phone to Francis I. duPont & Co. (.3). Phone conference with Benisch (.7). Conference with Francis J. Quillinan (1). Phone from Tilney (.3).	2.9
3/28	Review mail and phones from Tilney and Zahl (.5). Phone conference with Benisch (.7). Phone from Tilney (.2). Meeting and conference with Hogan and Benisch (4). Phones from Tilney (1.1).	6.5
3/29	Review of mail (.2). Phones with Benisch and Hogan (.5). Phones from Tilney and Senator Brady (.4). Conference, meeting and negotiations with Hogan, Benisch, Tilney, Laidlaw and Brown (4).	5.1
4/1	Review mail and phone conference with Benisch (.7). Negotiations with Studley for solicitation of bid for purchase of securities (.8).	1.5
4/2	Review of mail and dictate correspondence; phone to Francis I. duPont & Co. re sale of securities (.7). Phone from Tilney (.5).	1.2
4/3	Phone from Tilney; phone conference to Hogan (.4). Review mail and dictate; study files; phones to Francis I. duPont & Co. and Benisch and from Tilney (2.3).	2.7
4/4	Phone from Tilney (.4). Phones to Long Island National Bank and Bankers Trust Company (.5). Review mail and dictate (.5). Phone from Tilney (.3). Phone to Holman, Esq. in Seattle re City of Nome (.3). Phone to Davenport (City Commerce Corp.) in Anchorage, Alaska (.4). Phone to Roger Cremo, Esq. in Anchorage, Alaska re City of Nome (couldn't be reached) (.2).	2.6

1968		Hours
4/5	Review mail and phone conference with Benisch (1). Phone conference from Tilney (.5). Dictate correspondence (.5). Phone from Benisch (.2). Phone to Roger Cremo, Esq., in Anchorage, Alaska (couldn't be reached) (.3).	2.5
4/8	Review mail and dictate (.7). Telephone to Henry Howard, Esq. in Waddington, N.Y. re solicitation of bid for purchase of stock of The Waddington Bank (spoke to Sec'y.) (.1). Phone to Robert Cremo, Esq. in Anchorage, Alaska (.3).	1.1
4/9	Review of mail (.3). Phone to Henry Howard re solicitation of bid for purchase of stock of The Waddington Bank (.5). Phone from Brown in Alaska (.2).	1
4/10	Review mail and dictate (1). Phones from Judge Edelstein and Tilney (.7).	1.7
4/11	Review mail and dictate (.5). Phones to and from Tilney (.7).	1.2
4/12	Review mail; analyze Tinker National Bank; letters from Benisch, and Tilney to Baker; phones to Zahl and Laidlaw; phone from Tilney; dictate correspondence.	2.5
4/15	Review mail; dictate correspondence; and phone to Laidlaw (.7). Phone from Brown in Alaska (.2). Phone from Tilney (.3). Phone from Hogan (.3).	1.5
4/16	Review mail and Franklin National Bank file; Phones to Keating and Kurtz (Franklin National Bank); Phone to Francis I. duPont & Co. (.8). Phone conference with Benisch (.5).	1.3
4/17	Review mail and dictate letter to Tilney (.4). Phones to Hogan and Klein (.2). Phone from Tilney (.6). Phone from Tilney re Texas call, etc. (.4). Phone conference with Zahl (.3).	1.9
4/18	Review of mail (.2). Conference with Hogan and Benisch (2). Review mail (.4). Phone conference with Tilney (.3). Dictate correspondence to Manufacturers Hanover Trust Company and Tinker National Bank (.3).	3.2

1969		Hours
4/19	Review mail; dictate correspondence and phone to Benisch (1). Phones from and to Tilney (1).	2
4/22	Review mail and dictate correspondence (.6). Phones from Tilney (.7).	1.3
4/23	Review mail (.3). Review and analyze Answer of D. Raymond Kenney to Complaint of receivers (.3). Phone from Brown in Alaska (.2). Phone conference with Benisch (.4).	1.2
4/25	Phone to Keating of Franklin National Bank re sale of bonds.	.3
4/26	Review mail; review affidavit of Benisch and phone conference with Benisch re redraft and revision thereof.	1.8
4/29	Review mail (.3). Phones to and from Tilney (.4). Phone conferences with Benisch (.6). Dictate correspondence (.2). Phone conference with Judge Edelstein (.4). Phone to Hogan (.4). Phones to George Brown (.4). Phone conference with Benisch (.3). Phone from Tilney (.2). Dictation and work on files (.3).	3.5
4/30	Phone from Hogan (.2). Phone from Tilney (.4). Conference with Benisch (1.8).	2.4
5/1	Review mail and phone to Irving Trust Company re safe deposit box (.4). Phone from S.E.C. (.2). Phone conference with Benisch (.3). Conference with Hogan and phones from S.E.C., to and from Tilney, to Blythe & Co., to Shields & Co., to Francis I. duPont & Co., to Franklin National Bank, et al. (1.7). Phone to M.A. Shapiro & Co. (.2). Phone from Brown in Alaska (.2). Phones from Keating of Franklin National Bank (.2). Phone from Tilney (.3). Phones to Rieger (Long Island National Bank (.2). Phone to Mr. Townsend (Long Island Commercial Review (.1). Phone to Baker in Seattle - left word (.1). Phone to Klein(accountant) (.1). Phone from Hogan (.2). Phone to Benisch (.2). Phones from Townsend and Klein (.5). Phones from M. A. Shapiro & Co. (.3). Dictation and correspondence (.8).	6

1968		Hours
5/2	Review mail; Phones to Benisch and Tilney; dictation; phone from M.A. Shapiro & Co. (.2). Review and sign correspondence and phone from Tilney (.5).	.7
5/3	Review mail and dictate correspondence, letter to Department of Highways, State of Alaska; phone from Mr. Dite, Franklin National Bank (1). Conference, meeting and negotiations with Hogan, Benisch, Tilney, Greidinger, Klein, Zahl and Messrs. Schroeder and Powell (3.5).	4.5
5/6	Review mail and last day's correspondence (.7). Phone conference from Hogan re sale of stock of Matinecock Bank (.3).	1
5/7	Phones from Tilney (.7). Phone from M.A. Shapiro & Co. (.1). Phone conference from Benisch (.5).	1.3
5/8	Review mail and phones to and from Hogan and Mr. Townsend of Long Island Commercial Review (.6). Phones to Benisch and Tilney (.6).	1.2
5/9	Review mail and work on correspondence.	1.8
5/10	Review mail and work on correspondence prepared previous day (1.1). Phones from Tilney (.6). Phone conferences from Hogan (1).	2.7
5/13	Phone from Tilney (.3). Phone from Mr. Dite (Franklin National Bank)(.2).	.5
5/15	Phones with Hogan, Benisch and Tilney.	.8
5/16	Conference with Hogan and discussion with Laidlaw re salary claim; phones from Benisch and Tilney during conference.	2.3
5/17	Review of mail (.3). Phones from Tilney (.6). Phone from Mr. Dolan (Alaska Department of Highways) (.2).	1.1
5/20	Review mail (.3). Phones from Tilney and phones to Hogan and Benisch (1.3).	1.6

1968		Hours
5/21	Review mail and phone from Mr. Loomis, husband of employee (.7). Preparation of correspondence and dictation (2). Review of file and phone to Bankers Trust Co. (.3). Phone from Tilney (.3). Phone with Bankers Trust Co. (.5). Phone from Mrs.Brideen Crawford, Chairman of Board of Alaska State Bank and City Commerce Corp. (.3). Phone to Hogan (.3).	4.4
5/22	Review of mail.	.3
5/23	Review of mail and phone from attorney for Telephone Company (.4). Phones from Hogan and Tilney (.5).	.9
5/24	Review mail and dictate correspondence; phone conference with Benisch; phone conference with Hogan; phone to Rieger (Long Island National Bank); analyze and review files; phone from Tilney.	6.8
5/27	Review mail, phone from Tilney re Waddington Bank; phone from Greidinger; 2 more phones from Tilney; phone frm Zahl; 3 phones from Hogan; phone from Benisch; dictate correspondence; phone to Matinecock Bank.	4
5/28	Review mail and phone to Tilney.	.5
5/29	Review mail and phone conference with Benisch; phone to Mr. Linden of Zalkin & Co. re First National City Bank v. Tilney (.7). Conference with Hogan, Benisch, Zahl and Mr. and Mrs. Tilney; phone to Mr. Faherty of Blythe & Co. re disputed sale of stock of The Waddington Bank at $47 per share (3.5).	4.2
5/31	Review mail and phones from Tilney and Zahl (.6). Phone to Faherty (.3).	.9
6/3	Review mail and phone from Rieger (Long Island National Bank) re stock (.5). Phones from Tilney (.7). Phone from Laidlaw (.2).	1.4
6/4	Review mail (.4). Phone from Matinecock Bank re stock (.3). Phones from Tilney (.6).	1.3

1968		Hours
6/5	Review mail; phone from Tilney; dictate letter(.4). Phone to Tilney re Matanuska Valley Bank (.2). Phone to Mr. Faherty (.2).	.8
6/6	Review mail and dictate correspondence (1). Phone from Tilney (.6).	1.6
6/7	Phone from Tilney	.4
6/10	Phone conference to Benisch (.3). Phones from Tilney (.9).	1.2
6/11	Review mail (.3). Phone to Hogan; phone to Blythe & Co. re stock of Matinecock Bank and stock of The Waddington Bank and phones from Tilney (.6). Conference with Benisch (4).	4.9
6/12	Review mail and phone to Mr. Devoe of Bankers Trust Company (.4). Phones to Matinecock Bank and Bankers Trust Co. (.2). Phones from Tilney (.4). Dictation and work on correspondence (1.5). Phone from Bankers Trust Co.(.1) Review mail from Tilney re Long Island National Bank and Alaska State Development Corp. (.5).	3.1
6/14	Review mail and phone from Tilney (.7). Receipt of stock from Bankers Trust Co. and dictate correspondence re Matinecock Bank and Alaska State Bank; phone to Hogan (1). Phones from Benisch and Tilney (.6).	2.3
6/17	Review mail; dictate; phone from Hogan (.5). Phone from Tilney (.2).	.7
6/18	Review mail (.3). Phone from Hogan (.2).	.5
6/19	Review mail and dictate.	.3
6/20	Review mail and dictate; phone from Fields re suit by A.T.& T.	.6
6/21	Review mail and phone from Tilney (.4). Phone from Hogan (.4). Phone from Kurtz's office, Franklin National Bank (.3). Phone from Hogan (.1). Phone to Faherty of Blyth & Co. (.3). Phones from Tilney (.8).	2.3

1968		Hours
6/24	Review mail and dictate (.4). Phone from Hogan re The Waddington Bank (.2).	.6
6/25	Review mail and dictate; phone from Tilney	.6
6/26	Review mail (.2). Meeting with Mr. DeCastro of National Bank of Alaska re bad checks of Governmental Statistical Corporation and possible sale of $95,000 note of Alaska State Development Corp. and phone to Tilney (1). Phone from Tilney (.5)	1.5
6/27	Phone from Hogan and phone to Judge Edelstein (.5). Review mail (.5). Phone from New England Life Insurance Co. (.2).	1.2
6/28	Phones from Tilney and Zahl (.6). Phone to Benisch (.4).	1
7/1	Phones from Hogan and Zahl (.3). Conference and meeting with Hogan, Benisch and Mr. and Mrs. Tilney (4.5).	4.8
7/2	Review mail; conference with Zahl and phone from Tilney.	.6
7/3	Review mail and phone to Studley re proposed sale of stock of The Waddington Bank.	.5
7/5	Review mail and dictate correspondence.	.7
7/8	Review mail and phone conference from Benisch (.7). Meeting and negotiations at Benisch's office with Kevin Thomas Duffy, Esq., and D. Raymond Kenney, and conference with Benisch (2).	2.7
7/9	Phones from Mr. DeCastro and P. Murray.	.4
7/11	Review mail and dictate; phones from Tilney.	.7
7/12	Phone conference to Benisch re Tinker National Bank proposal (.6). Phone conference from Hogan (.5). Phone from Tilney (.3). Prepare agreement re sale of stock of The Waddington Bank (.5).	1.9
7/15	Review mail and phone to Franklin National Bank (.4). Phone from Tilney (.4). Phone from Benisch (.2). Conference with Hogan and Benisch (2.6)	3.6

1968		Hours
7/16	Review mail and dictate (.5). Phone from Mr. Green of Internal Revenue Service(.3). Phones from Tilney (.7).	1.5
7/17	Review mail and phones to Rieger and from Benisch and Tilney (.8). Dictation of correspondence (.3). Phones to and from accountants (.5).	1.6
7/18	Review mail and phone from Tilney (.4). Phone conference to Benisch (.4). Phone from Tilney (.2). Conference at Benisch's office with accountants; and continuing conference with Benisch (3).	4
7/19	Review mail; phone to Long Island National Bank and dictation (1). Phone from Tilney (.3).	1.3
7/23	Review mail (.4). Phone from Judge Edelstein and phone to Benisch(.3). Phone from Tilney (.3). Phone conference from Benisch (.5).	1.5
7/26	Review mail and phone from Tilney (.5). Phones to Franklin National Bank(.2). to Francis I. duPont & Co.(.2). Judge Edelstein, Hogan and Benisch (1.9).	2.8
7/29	Conference with Judge Edelstein, Hogan and Benisch	3.5
7/31	Phone from Tilney (.8). Review mail and dictate (2).	2.8
8/1	Review mail (.3). Phone from Tilney (.3). Dictate correspondence (.5). Phone to Mr. Whelan in Alaska re $95,000 note of Alaska State Development Corp. (.2). Phone from Koppel (.3). Phone from Tilney (.3).	1.9
8/2	Review mail and dictate correspondence (.6). Phone from Dite (Franklin National Bank)(.2). Phones to Benisch and Greidinger (.2). Phone to Tilney (.3). Phone from Tilney (.3).	1.6

1968		Hours
8/6	Review mail and report; attendance at hearing in Federal Court and presentation of report of status and progress of receivership, and application for authority for trip to Alaska (7). Phone conference from Benisch (.5).	7.5
8/7	Review mail and phones to Benisch and Tinker National Bank (.7). Phones from Gunnigle and to Benisch and Hogan (.5). Phones to Benisch (.5). Phones to and from Tilney (.7). Phone to accountants (.3). Dictation (3).	5.7
8/8	Review mail and dictate (.4). Phone from Mr. Kennard (President, Alaska State Bank) (.3). Dictate correspondence and review (2).	2.7
8/9	Review mail; review letters to Alaska, sign and mail (.7). Phone from Hogan (.4). Phone re travel arrangements (.4). Phone from Tilney (.4).	1.9
8/12	Review mail; receipt and review of complaint served by City of Nome commencing law suit for $4,000,000; dictate; phone to Benisch (.7). Meeting and negotiations with Benisch, Mr. and Mrs. Tilney, Mr. Gunnigle and Mr. Fitzgerald (President and Vice-President, Tinker National Bank) (3.5). Phones to Hogan; phones to and from Mr. Robbins (Manufacturers Hanover Trust Company); phone to Mr. Burr in Alaska; phones from Tilney and Benisch; correspondence to Manufacturers Hanover Trust Company (1.7).	5.9
8/13	Review of mail (.3). Phone from Tilney (.3). Phone from S.E.C. (.3). Conference with Hogan and Benisch re trip to Alaska, Alaskan assets, and handling of law suit of City of Nome (3.5).	4.4
8/14	Phone to Marshal Diak re judgment in Mara v. Tilney.	.3

1968		Hours
8/14-8/23	Trip to Anchorage, Fairbanks and Nome, Alaska; conferences, meetings and negotiations with directors and officers of and attorneys for Alaska State Bank, City Commerce Corp., Matanuska Valley Bank, First National Bank of Anchorage, National Bank of Alaska, Senator Brady, Foster and Marshall, Sassara, Manager of City of Nome, for City of Nome, U. S. Attorney, Tilney customers, Roger Cremo, Esq., Donald Burr, Esq., participation in meeting of stockholders of Alaska State Bank.	70
8/26	Review mail; dictate correspondence and telegram re bid of Foster and Marshall to purchase 3688 shares of stock of Alaska State Bank at $38 per share (1.7). Additional review of mail (1).	2.7
8/27	Review of mail (.2). Phone from Albert O. Foster in Seattle re telegram re shares of stock of Alaska State Bank (.2). Phone conference to Benisch (.3). Phone from Tilney (.5). Dictate work on and review correspondence and files (4).	5.2
8/28	Review of mail (.3). Phone conference to Benisch (.8). Phone conference to Hogan (.5).	1.6
9/4	Review of mail (1). Phone to Laidlaw re sale of 150 shares of Alaska State Bank at $39 per share (.3).	1.3
9/5	Review mail; conference and meeting with Hogan, Benisch and Mr. and Mrs. Tilney.	4.5
9/6	Review mail; dictate correspondence re stock and warrants of Alaska State Bank; phone from Mr. Dite (Franklin National Bank) (1). Review afternoon mail and read and sign correspondence (.5).	1.5
9/9	Review mail (.4). Phone from Tilney (.3).	.7
9/10	Phones from Judge Edelstein and Benisch; phone to accountant; dictate correspondence (2). Work on files and dictate (3).	5
9/11	Review mail (.4). Work on files and securities (1.5).	1.9

1968		Hours
9/12	Phone from Tinker National Bank (.1). Conference with Hogan, Benisch, Greidinger and Klein (3).	3.1
9/13	Review mail, dictate and phone from Tilney (1). Phone conference withBenisch re Tinker National Bank (.4).	1.4
9/17	Review mail and dictate correspondence (1). Phone from Tilney and dictate (.6).	1.6
9/20	Phone from Mr. Green of Internal Revenue Service.	.3
9/25	Phone conference from Benisch	.3
9/26	Review mail and phone from Tilney (1). Meeting and negotiations with Benisch,Duffy and Kenney;phone to Tilney and phone from Stanley Reitman,Esq.,Anchorage, Alaska (4.5).	5.5
9/27	Review mail, conference with Zahl;phones from Mr. Green of Internal Revenue Service and phone to Francis I. duPont & Co.	2
9/30	Review mail; phone to Duffy re Kenney; phone to Francis I. duPont & Co. (.7). Conference and meeting with Hogan, Benisch and Mr. and Mrs. Tilney (3.8).	4.5
10/1	Review mail and dictate.	.5
10/3	Review mail; phone from Mr. Green of Internal Revenue Service; phone from Reeves of Matanuska Valley Bank in Anchorage, Alaska (1). Telephone to Foster and Marshall in Anchorage, Alaska, re sale of securities (.3). Phone from Tilney (.7).	2
10/4	Review mail and phone from Mr. Foster; sold 3329 shares of stock of Alaska State Bank at $39 per share for $129,831 (.7). Phone conference to Benisch (.4).	1.1
10/7	Phone from Tilney	.5
10/9	Review mail and dictate (1.5). Phone from Tilney re Matanuska Valley Bank stock and phone to Benisch (.5).	2
10/10	Conference with Benisch and drafting of report to creditors and customers (2.5). Review and draft and redraft of report(1).	3.5

1968		Hours
10/14	Review mail (.5). Dictate correspondence (.8). Phone from Mr. DeCastro of National Bank of Alaska (.2).	1.5
10/16	Review mail and dictate; phone conference to Benisch (1.5). Conference and meeting with Hogan, Benisch, Klein and Mr. and Mrs. Tilney (2.2). Conference and meeting with Mr. and Mrs. Tilney (.5).	4.2
10/17	Review mail (.3). Conference with Benisch, Klein and Zahl (2.5). Phone from Tilney (.4).	3.2
10/21	Review mail.	.2
10/22	Review mail.	.2
10/23	Phone conference from Benisch re Kenney and financial statements for report to creditors and customers (.7). Review of financial statements (.3).	1
10/24	Review mail.	.2
10/25	Review mail (.2). Meeting and negotiations with Hogan, Benisch, Duffy and Kenney re settlement for $85,000 (1.3)	1.5
10/28	Review mail, dictation and phones.	2.2
10/29	Review mail and phone from Tilney (.6). Conference with Benisch re Receivers' Report to Claimants (1.8).	2.4
10/30	Meeting and solicitation of bid for purchase of City Commerce Corp. securities.	.5
11/1	Review mail	.2
11/4	Review mail	.5
11/5	Review mail and dictate	1.5
11/6	Phone from Foster and Marshall in Seattle re stock.	.3
11/7	Review mail (.6). Phones to Manufacturers Hanover Trust Company and Long Island National Bank (.5).	1.1
11/8	Review mail.	.4

1968		Hours
11/11	Review mail and phone from Hogan.	.5
11/12	Review mail and dictate correspondence (1.8). Meeting with Zahl (1).	2.8
11/14	Review mail and files (.7). Phone conference from Benisch (.4).	1.1
11/15	Meeting with Zahl (2). Phone conference to Benisch (1).	3
11/18	Attendance at hearing in Federal Court and presentation of arguments in favor of settlement of Kenney judgment; later meeting with Benisch and Tilney.	5
11/19	Review mail and dictate; work on files.	2
11/20	Phone to Kennedy at Internal Revenue Service (.2). Phone conference to Benisch (.7).	.9
11/21	Review draft of report to claimants and phones from Tilney (1). Phone conference from Benisch (.5).	1.5
11/26	Review mail and file on First National City Bank v. Tilney and pleadings in suit by City of Nome; phones to Benisch and accountants.	1.3
11/29	Review mail.	.3
12/2	Review mail and phone conference to Benisch.	.5
12/4	Review mail and statements (.4). Conference with associate and preliminary drafting of form of proof of claim (1).	1.4
12/5	Review mail (.3). Analysis, review and redrafting of proof of claim (1.5). Phone conference from Benisch re Tinker National Bank (.3).	2.1
12/6	Revision of proof of claim and delivery to Benisch.	.5
12/10	Phone from Mr. Rasmuson, Chairman of the Board of National Bank of Alaska.	.5
12/11	Review mail and dictate (.7). Continue dictation; review securities and files (3.3). Phone from Benisch (.5).	4.5

1968		Hours
12/12	Review mail; dictate; review files; phone to Manufacturers Hanover Trust Company; meeting with accountant.	1.5
12/17	Review mail; phones to Mrs. Tilney and Benisch (1.6). Phone from Mr. DeCastro of National Bank of Alaska (.4).	2
12/19	Phone conference with Benisch.	.4
12/31	Review mail.	.5
1969		
1/6	Review mail and messages (.5). Phone from Benisch (.3). Phone to Tilney (.3).	1.1
1/9	Review mail; conference with accountant; dictate correspondence.	1.7
1/13	Conference with Benisch.	4
1/24	Review mail.	.5
1/28	Phone from Mr. DeCastro of National Bank of Alaska; review mail; dictate correspondence.	3.5
1/30	Phone conference with Benisch.	.9
1/31	Review mail and dictate.	.8
2/3	Review mail.	.4
2/4	Review mail (.4). Phones from Tilney (.4).	.8
2/5	Review mail (.4). Phone from Tilney (.3).	.7
2/6	Review mail; analyze files; dictate.	3
2/7	Review mail (.5). Phone from Tilney (.5).	1
2/12	Review mail and work on correspondence.	3
2/13	Phone from Tilney (.4). Dictate correspondence and miscellaneous; phone to and from Kahl (.7). Phone conference with Benisch (.5).	1.6

1969		Hours
2/19	Review mail (.4). Conference and meeting with Hogan, Benisch and Tilney (3.5). Meeting with Tilney (.5).	4.4
2/20	Review mail (.3). Phone conference from Benisch (.5).	.8
2/21	Review mail; phones to Benisch and Internal Revenue Service (.4). Phone conference from Benisch (.3).	.7
2/25	Review mail (.3). Phone to Mr. Green of Internal Revenue Service (.3).	.6
2/26	Phone from Tilney.	.3
2/28	Review mail (.3). Phone from Tilney (.5).	.8
3/4	Review mail; phone Kenney; phone from Hogan re Sundown (1). Miscellaneous re disposition of preparation of securities for sale (.5).	1.5
3/5	Phone from Mr. Brennan of Internal Revenue Service (.3). Review mail; dictate correspondence and prepare stock powers; etc. (.7).	1
3/6	Review mail and dictate correspondence.	.4
3/11	Review mail.	.5
3/12	Review mail (.4). Phone from Tilney (.5).	.9
3/13	Phone conference from Benisch (.8). Dictate correspondence (.2).	1
3/18	Review mail and phone conference from Benisch.	1
3/20	Review mail and draft of petition of Benisch re Nolac settlement (.8). Phone from Tilney (.7).	1.5
3/24	Review mail; phones with Benisch and Tilney.	2.2
3/25	Review mail and dictate correspondence (.7). Phone from Tilney; phone to Castaro of Internal Revenue Service (.5). Phone from Wood, Walker & Co. (.2).	1.4
3/26	Review mail; phone to Tilney (1). Work on files and further study and analysis (3).	4

1969		Hours
3/27	Review mail; phone to Cestaro of Internal Revenue Service.	.5
3/28	Review mail and phone conference from Hogan.	.6
3/31	Review mail (.5). Phone from DeCastro of National Bank of Alaska (.2). Phone conference to Benisch; dictate; review Nome file and work on revision of petition re Nome settlement (2).	2.7
4/1	Review mail; conference and meeting with Hogan, Benisch and Tilney.	5.1
4/2	Review mail and dictate (1.3). Phone from Benisch (.3).	1.6
4/4	Review mail (.6). Further revision of petition re Nome settlement (2). Phone conference to Benisch (.3).	2.9
4/7	Review mail and correspondence (1). Attendance at hearing at Federal Court (3).	4
4/10	Review mail (1). Phone from Tilney (.3). Phone conference to Benisch (.2).	1.5
4/11	Review mail; phone from Tilney; review petition and execute.	1
4/14	Review mail; dictate correspondence; phone to Tilney and phone from Wall Street Journal.	1.5
4/15	Attendance at hearing at Federal Court re Nome settlement (2.5). Phones from Tilney (.7). Phone from Alaska from Mrs. Brideen Crawford Milner, Chairman of the Board of City Commerce Corp. (.3).	3.5
4/16	Review mail; phones to and from Tilney and Benisch; study City Commerce file (.8). Review files and dictate correspondence (2).	2.8
4/17	Review mail.	.2
4/18	Attendance at hearing in Federal Court re matter of Tinker National Bank.	1
4/24	Review mail; dictate correspondence; attend to administrative details; phones from Tilney, to Hogan, to and from Benisch.	4

1969		Hours
4/25	Review mail (.2). Phone from Tilney (.5).	.7
4/29	Review mail (.2). Phone from Tilney and to Benisch (.6), Phone from Benisch (.5).	1.3
4/30	Review mail (.2). Phones from Tilney (.5). Phone to Hogan (.3).	1
5/1	Review mail; review supplemental petition and order re Tinker National Bank and forward to Hogan.	.5
5/5	Review mail.	.3
5/6	Review mail.	.3
5/7	Review mail.	.3
5/8	Review mail; phones to and from Benisch.	.7
5/9	Phone to Benisch.	.3
5/12	Review mail and dictate correspondence (.5). Phone conference with Hogan (.4).	.9
5/15	Review mail and phone from Tilney.	.5
5/16	Phone to Alexander & Alexander, Inc.	.3
5/19	Review mail.	.5
5/20	Review mail (.3). Phones with Benisch and Tilney (1.3). Phones to Francis I. duPont & Co. and Tilney; phont to Russell & Saxe re sale of 2000 shares of stock of City Commerce Corp. (.5). Review files and dictate (.5).	2.6
5/21	Review mail and dictate correspondence (.7). Phone to Tilney (.3). Review files and additional dictation (.7).	1.7
5/22	Review mail (.3). Phone from Tilney and phones to Haverbeck and Kadelberg (Francis I. duPont & Co.) re sale of stock of City Commerce Corp. (.5).	.8
5/26	Review mail; dictate correspondence and phone from Tilney (.8). Phone to Benisch (.2). Work on stock certificates of City Commerce Corp. (.3).	1.3

1962		Hours
5/27	Review mail and dictate correspondence.	.5
5/28	Review mail and phone from Benisch (.4). Conference and meeting with Hogan, Benisch and Mr. and Mrs. Tilney (2.8). Conference with Hogan and Benisch and then Benisch (1.5).	4.7
5/29	Phone conference with Benisch.	.4
6/2	Review mail and files and attend to administrative details (.5). Phone to insurance broker (.4). Phones to Benisch (.5). Phone to Judge Edelstein (.1).	1.5
6/3	Conference with Judge Edelstein at Chambers (.5). Conference with Benisch (1.5). Analysis and review of documents and files; preparation for conference at court (4).	6
6/4	Review of mail; phone from Judge Edelstein re conference; phone to Benisch (.5). Phone to Hogan (.2). Phones to Benisch and Hogan (.5).	1.2
6/5	Review mail and dictate correspondence (.5). Conference at court, and continuing conference with Hogan and Benisch (4). Administrative details (.5).	5
6/6	Review mail; review material on Alaska and Anchorage Sewer Bonds; phones to Francis I. duPont & Co., Klein; phone to Blyth & Co., White, Weld & Co. (1.5). Phone from Francis I. duPont & Co. re sale of 10,000 shares City Commerce Corp. at $.40, and discussion of offering of balance of shares for sale (.3). Review files and dictate correspondence to Alaska (.6). Phone from Klein and discussion (.2).	2.6
6/9	Review mail and attend to administrative details (.3). Review holdings of stock of City Commerce Corp.; prepare and sign stock powers (.6). Phone to Francis I. duPont & Co. (.2). Conference with Hogan (.4). Phone to Edward L. Tatro & Co. seeking 130 shares of Bank of Westbury Trust Co. (.3). Dictation (.2).	2

1969		Hours
6/10	Review mail; prepare and sign powers re stock of City Commerce Corp. (.7). Conference with Hogan; phone to Benisch (1.7).	2.4
6/11	Review mail and dictate correspondence (.6). Phone conference from Benisch (.7).	1.3
6/12	Review mail; phones to and from Zahl (.3). Review financial statement of Central Alaska Utilities and material in file (1.5). Receive and examine subpoena duces tecum from S.E.C. re records of Tilney & Company, and phone conference with Benisch re Tilney's constitutional rights (.5). Phone from Benisch (.3).	2.6
6/13	Review mail and take care of administrative details; place call to Kadelberg of Francis I. duPont & Co. (.5). Review afternoon mail; three phones to Benisch and two phones to Zahl (1.2).	1.7
6/16	Review mail and take care of administrative details (.4). Phone from Hogan (.2). Phone to Tilney (.2). Phone from Zahl (.2).	1
6/17	Review mail and perform administrative details; phone to Kadelberg of Francis I. duPont & Co.	.5
6/18	Review mail (.2). Phone from Tilney (.2).	.4
6/19	Review mail (.1). Phones to and from Benisch, Ormsten (S.E.C.) Emory (S.E.C.), Zahl (1.5). Conference at Hogan's office with Tilney (2.2).	3.8
6/20	Review mail and phone from Emory (S.E.C.) (.3). Phone conference with Benisch (.5).	.8
6/25	Review mail (.3). Phone conference with Hogan (.7). Phone from Blyth & Co. re Central Alaska Utilities (.2). Phone calls from Tilney and to Benisch and Ormsten (.4). Phones to and from Ormsten (.7). Phone from Ormsten (.2).	2.5
6/26	Review mail (.1). Attendance at conference at Federal Court (1.5). Conference with Benisch (1).	2.6

1969		Hours
6/27	Review mail (.3). Phones from Hogan (.6).	.9
6/30	Review mail and dictate letter.	.2
7/1	Review mail.	.1
7/2	Review mail and phone conference with Benisch.	1.1
7/3	Review mail and transcript of 6/26/69 conference at Federal Court (.7). Phone conferences with Benisch and Zahl (.6). Conference and review of books with Zahl (1.2).	2.5
7/7	Review mail (.1). Trip to Hogan's office and conference and meeting with Hogan, Benisch, Greidinger, Klein & Zahl (2.7).	2.8
7/8	Review mail and dictate.	.2
7/10	Review mail (.1). Phone conference from Benisch (.5).	.6
7/11	Review mail and meeting with Zahl.	.3
7/14	Review mail and phone conference from Benisch.	.5
7/15	Review mail and phone to Benisch.	.5
7/16	Attendance at hearing in Federal Court (5). Turning material over to Hogan (.3).	5.3
7/18	Phone conference with Benisch.	1
7/22	Review mail; phones to Judge Edelstein, Benisch and Hogan.	.7
7/23	Conference at Chambers with Judge Edelstein, Hogan and Benisch (3). Review files and preparation of receipt for securities (3).	6
7/24	Attendance at hearing at Federal Court (2.5). Conference with Hogan and Benisch as to assets, liabilities, etc. (2.5). Phone conference from Hogan (.4). Review and search of files for all notes and securities (.5).	5.9

1969		Hours
7/25	Phone conference with Benisch re claims and suggested procedures against Governmental Statistical Corp., Long Island National Bank and Dorothy Tilney; discussion re liquidation of stock of City Commerce Corp., and Matanuska Valley Bank; advice as to New York Banking Law re public sale of stock of The Waddington Bank (1). Preparation of receipt for notes and securities of Governmental Statistical Corp. (.6).	1.6
7/31	Review files and continuing administrative details.	1
8/1	Received mail and letter to Hogan.	.2
8/5	Received mail and letter to Hogan.	.2
8/13	Received mail and forwarded to Hogan.	.1
8/14	Received and reviewed mail of Central Alaska Utilities and claim of D. Raymond Kenney, and forwarded to Hogan.	.3
8/18	Received and reviewed letter and copies of Fiduciary Income Tax Returns and year ended 10/31/68 prepared and filed by accountants.	1.2
8/20	Phone conference from Benisch and continued analysis of tax returns.	1
8/26	Received mail and forwarded to Hogan.	.3
8/28	Research re Internal Revenue Code and dictated correspondence.	1
8/29	Received mail and replied to Internal Revenue Service and to National Association of Securities Dealers; phone to N.A.S.D.	.6
9/10	Review mail and forward to Hogan.	.2
9/11	Phone conference with Benisch.	.7
1970		
1/16	Conference with Mr. Higgins and Wagner, Quillinan & Tennant re claims and proceedings against Governmental Statistical Corporation, Long Island National Bank and Dorothy Tilney, including review and analysis of Harris' files and borrowing of file.	2
1/29	Receive and forward mail.	.1
2/13	Receive and review Fiduciary Income Tax Returns for year ending 10/31/69 and correspondence to Hogan.	.4
	Total Recorded Hours	767.9

	Hours
Total recorded hours excluding preparation of Report, etc.	767.9
Based upon past experience and recognition of the fact that a certain amount of time spent on a continuing matter such as this is overlooked and neglected to be recorded, plus the fact that extensive but unrecorded hours were spent during evenings and on weekends reading and studying the voluminous schedules, letters and status reports prepared and sent by Frederick Tilney to the Receivers from time to time an additional 10% in hours is added.	76.7
Time necessarily expended in the preparation of the accompanying Report and Petition for Allowance and this Schedule.	40
	884.7

E. & O. E.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SECURITIES & EXCHANGE COMMISSION,

Plaintiff,

vs. 67 Civ. 4676

TILNEY & COMPANY and FREDERICK TILNEY,

Defendants.

Before:

HON. DAVID N. EDELSTEIN,

District Judge.

New York, May 7, 1970;
10.00 o'clock a.m.
(Room 618)

APPEARANCES:

FRANKLIN ORMSTEIN, ESQ.,
Attorney, Securties & Exchange Commission.

WAGNER, QUILLINAN & TENNANT, ESQS.,
Attorneys for receivers;
Robert G. Benisch, Esq., of Counsel.

JOSEPH C. HOGAN, ESQ.,
Receiver.

CADWALADER WICKERSHAM & TAFT, ESQS.,
Attorneys for Defendants Frederick Tilney and Tilney & Company;
Terence F. Gilheany, Esq., of Counse.

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ALSO PRESENT:

Mr. Frederick Tilney

Mrs. Dorothy Tilney

Mr. Jerry Klein

MR. BENISCH: Your Honor, this is a continuation of the hearing held last Wednesday, at which time I requested permission to examine Mr. Tilney with respect to the claim filed by Tilney & Company & Company, Inc., in so far as the facts disclosed in connection with that claim indicate the possibility of a diversion of funds from the receivership estate.

I would therefore like to call Mr. Tilney to the stand to give testimony with respect to this matter.

- -

F R E D E R I C K T I L N E Y , called as a witness, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BENISCH:

Q Mr. Tilney, are you an officer of Tilney & Co., Inc.?

A I am.

Q What office do you hold?

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A President.

Q Are you a stockholder of Tilney & Co., Inc.?

A I am.

Q What percentage of the outstanding shares of stock of that corporation do you hold?

A 90 shares out of 100.

Q That 90 per cent.

A That is correct.

Q And who owns the other 10 per cent?

A Mrs. Tilney.

Q Did Tilney & Company, Inc. cause to be filed with the receivers a claim against Tilney & Company in the sum of $16,284.72?

A We did.

MR. BENISCH: Will you please mark this for identification.

(Marked Receivers' Exhibit 1 for identification.)

BY MR. BENISCH:

Q I show you proof of claim referred to and ask you if that is the actual claim filed (handing).

A That is the proof of claim filed, signed by the secretary of the corporation and minority stockholder.

MR. BENISCH: If the Court please, the proof of claim in issue is Exhibit G attached to the receiver's

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petition dated February 24, 1970.

BY MR. BENISCH:

Q Mr. Tilney, will you explain the substance of this claim in the amount of 16,284.72?

A The substance of the claim represents securities of Tilney & Company, Inc --

Q When you say "securities of", do you mean of the stock of Tilney & Company or securities --

A Other securities.

Q You say "other"; belonging to?

A Belonging to, right.

Q Please continue.

A (Continued) These securities were out of the capital of Tilney & Company, Inc. or resulted from stock dividends on a repurchase agreement involving substantial blocks of Tinker National Bank stock, now taken over by Marine Midland Corporation as part of their chain of banks and it has been converted into Marine Midland Corporation stock.

Prior to the takeover, the dividends of the Tinker National Bank in stock or in cash would have been the property of Tilney & Company, Inc.

Q So that, Mr. Tilney, the claim represents either the market value or the stock dividends or the cash value

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or cash dividends on shares of stock of Tinker National Bank, now Marine Midland, which has been received by the receiver, is that correct?

A That is correct.

Q Where are the shares upon which the stock dividends were declared located?

A In so far as the Tinker National stock shares, they are in the possession of Mr. Brooke V. Postley.

Q Is that the only stock that is in question here, the Tinker National Bank, now the Marine Midland, stock upon which dividends were declared that you are claiming?

A No.

Q What other stock are you claiming?

A There was in the capital account of Tilney & Company, Inc. as of January 1, 1967, 200 shares of Alaska State Bank stock, now 220 by virtue of a stock dividend.

Q Where are those shares located?

A Those shares are currently in the possession of the receiver.

Q The only stock that we are talking about now that is in the possession of Mr. Postley is the Marine Midland stock, formerly Tinker National Bank, is that correct?

A That is correct.

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Q At the time of the delivery of these shares of stock of Tinker to Mr. Postley in whose name was the stock registered?

A The stock was registered in my name and was part of the capital of Tilney & Company for which Mr. Postley paid the full then market price.

Q And at what date did you deliver these shares of stock to Mr. Postley?

A They were in two sections:

1250 shares were delivered for payment, and payment was received on 2/25/66 -- that is February 25, 1966.

4000 shares were delivered on June 1, 1966 and payment was received therefor and duly credited on the books of Tilney & Company through the banks.

Q Upon the delivery of this stock to Mr. Postley was there any consideration paid to Tilney & Company or to yourself as owner of the stock by Mr. Postley?

A Yes. The consideration on the first delivery was $106,250.

The consideration on the second was $344,000 exactly.

Q And were these shares of stock delivered pursuant to an agreement to repurchase them by Mr. Postley?

A An agreement and a right to repurchase.

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Q A right to repurchase these shares of stock in whom? Who had that right?

A That right was -- at the of delivery that was in Tilney & Company, not in myself.

Q And I assume that that right to repurchase has never been exercised --

A It has not been exercised.

Q Will you explain to me, please, how, then, Tilney & Company, Inc. is now claiming the dividends declared on those shares of stock?

A In January of 1967 Mr. Postley agreed to assign the right to repurchase to Tilney & Company, Inc., and affirmed this in a letter for the benefit of our accountants on October 18, 1967.

Mr. Postley is forwarding a letter to me indicating the situation and referring to that -- to that date of January -- the letter was mailed yesterday and I will have it.

Q Who was the repurchase agreement between -- the signatories to the agreement?

A The signatories to the agreement would be between Tilney & Company and Brooke V. Postley, and he had the right of assignment.

Q When was the assignment or when did the assignment

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from Tilney & Company to Tilney & Company, Inc. take place?

A January 1967.

Q Did you have a writing indicating this assignment?

A It was a verbal agreement and now reduced to writing.

Q Do you have a copy of the writing --

A I have a copy that Mr. Postley is sending down (handing).

MR. BENISCH: Will you please mark this for identification.

(Marked Receivers' Exhibit 2 for identification.)

BY MR. BENISCH:

Q Mr. Tilney, I have a photocopy of a letter addressed to Mr. Brooke V. Postley on Tilney & Company's stationery over what appears to be your signature, dated October 18, 1967. I ask you if this is --

A That is correct.

Q -- a copy of that?

A I handed that to you from my files.

Q And did you send this letter to Mr. Postley?

A I sent this letter to Mr. Postley and he signed it.

Q This letter states:

"Dear Brooke:

"Pursuant to our recent conversations, we would

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like your authority to transfer the repurchase agreement from Tilney & Company, a partnership, to Tilney & Company, Inc., a corporation, in the matter of the following securities:

"4,000 shares Long Island National Bank 23-1/2

"1,250 shares Tinker National Bank 85

"4,000 shares Tinker National Bank 86

"If you would be good enough to sign the enclosed carbon of this letter and return it in the stamped self-addressed envelope, we would appreciate it for our records.

"Sincerely, Frederick Tilney".

On the foot of said letter in writing is:

"Approved: Brooke Postley 10/19/67".

Now Mr. Tilney, is this the written assignment to which you are referring?

A That is the written assignment to which I am referring which was obtained for the benefit of our auditors.

Q But there is no other assignment, then, or alleged assignment than this one.

A A verbal agreement.

Q And you were aware, were you not, that since September 29, 1967, prior to the date of this letter, that you and Tilney & Company were under the prohibition of a

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permanent injunction issued by this Court preventing you from assigning or transferring any assets of yourself or Tilney & Company?

A I certainly was.

Q Now at the time of the delivery on October 18, 1967, at the time of the written evidence of your alleged assignment of the repurchase agreement to Mr. Postley, how much money had been advanced by Mr. Postley with respect to the shares of stock which he held?

A Well, I would have to check that through.

Could I have that file, please?

Q Pardon? Which file?

A The file marked Brooke Postley.

Q Your papers?

A I showed you a letter that he sent me down.

THE COURT: Mr. Tilney, why don't you step down and get it.

MR. BENISCH: Oh, I am sorry (handing to witness).

THE WITNESS: It is right here, sir.

A (After examining) The total amount advanced by Mr. Postley in connection with the three pieces of securities was $94,000 for 4000 shares of Long Island National Bank, advanced January 10, 1966, and, as I noted before, on February 25, 1966 $106,250 on 1250 shares of

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Tinker National Bank, and on June 1, 1966 $344,000 on 4000 shares of Tinker National Bank.

Q And what amount is presently owing Mr. Postley?

A The amount stated.

Q In other words --

A In other words, to reacquire the stock I would have to pay him that amount of money.

Q Is that what the repurchase agreement calls for?

A That is the verbal repurchase agreement.

Q Do you have a written repurchase agreement?

A No.

Q There is nothing in writing indicating that?

A That is correct.

Q There is nothing in writing to indicate at what price Tilney & Company, Inc. or Tilney & Company has the right to repurchase these shares?

A Yes. In the letter that I showed you on October 18, which was sent out at the request of our auditors in connection with confirmation of accounts, that would be the price multiplied by the number of shares, the prices indicated.

Q That is, 23-1/2, 85 and 86 respectively.

A Absolutely.

Q At the present time are the shares of stock in the

possession of Mr. Postley registered in Mr. Postley's name?

A Correct, with the exception of the Long Island National Bank stock which repurchase agreement was liquidated.

Q When you say it was "liquidated", what took place?

A The stock was sold.

Q By whom?

A By Mr. Postley upon my request.

Q And what proceeds were received for that stock?

A The proceeds were slightly less than the repurchase agreement.

Q And when were those shares of stock liquidated pursuant to your direction?

A I would imagine it was in the latter part of 1967 or early '68.

Q After the commencement of the receivership?

A After the commencement of the receivership and before any stipulation.

Q And you say that therefore you have liquidated at least $94,000 of the liability to Mr. Postley?

A That is correct.

Q So that your prior statement that you have not reduced the amount to Mr. Postley is not a correct statement, is it?

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A Well, we were talking about Tinker when I made that statement.

Q No, I am talking about all of the shares of stock.

A Oh!

Q In other words, you are claiming that Mr. Postley advanced $544,250 --

A Yes.

Q -- to Tilney & Company in exchange for three separate blocks of stock?

A Correct.

Q Now apparently $94,000 of that total figure has been paid off, is that correct?

A Well, I think you are using the wrong expression here to the extent of "paid off". This is a repurchase agreement, a right of repurchase, and Mr. Postley so views it.

Q All right. Mr. Postley, then pursuant to your direction sold 4000 shares of Long Island National Bank, and call it what you will, wrote off $94,000 of debt of Tilney & Company or Frederick Tilney & Company?

A No, there was no debt of Frederick Tilney or Tilney & Company -- I deny that statement. It was a debt of Tilney & Company, Inc. and no one else.

Q When Mr. Postley originally advanced the money to

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whom did he advance it?

A He advanced it to Tilney & Company and then re-assigned on his agreement to Tilney & Company, Inc.

Q Do you have a written agreement from Mr. Postley running to Tilney & Company with respect to that?

A No, verbal -- I don't need one.

Q So at the present time Mr. Postley holds only the Tinker National Bank shares?

A That is correct.

Q And at the present time I assume that the underlying obligation with respect to these Tinker National Bank shares is $450,250?

A I would say that is a correct figure without adding it up.

Q And is the value of the Tinker National Bank, now Marine Midland, shares in the possession of Mr. Postley in excess of that amount of $560,000 --

A No, it is below that.

Q What is the present value of the shares being held?

A I would have to add it up but it is substantially below that -- I can give you the figure after computing it.

Q Have you any arrangements with Mr. Postley with respect to the liquidation of these shares?

A Mr. Postley and I are prepared to handle this as

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soon as this receivership is closed.

Q Have you an arrangement?

A Yes.

Q What is that specific arrangement?

A We will either continue carrying the stock as it now stands or we will liquidate it as it appears advisable, depending on market conditions.

Q Has Mr. Postley agreed to accept subordinated notes of Tilney & Company, Inc. --

A He definitely has.

Q -- in the event of a loss on this repurchase?

A He definitely has.

Q And in the event of a gain or profit on the sale or liquidation of these shares who is that equity or excess amount to go to?

A It would go to Tilney & Company, Inc.

Q At the time of the so-called assignment of this repurchase agreement or right to repurchase, the assignment by Tilney & Company to Tilney & Company, Inc., was there any consideration paid by Tilney & Company, Inc. for this exchange?

A None.

Q The moneys advanced by Mr Postley, Mr. Tilney, were advanced to whom?

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A To Tilney & Company when the stock was purchased and put in Tilney & Company's cash position.

Q And Tilney & Company used and had the use of these funds, did it not?

A That is correct. I believe it was probably primarily used to reduce the bank loans -- every penney of it was used to reduce bank loans, as a matter of fact.

Q Will you explain to me, Mr. Tilney, assuming the assignment is effective, assuming that all you say is the fact, how it is that Tilney & Company, Inc. now makes a claim against the receivers for dividends declared on stock which belongs to Mr. Postley?

A Because that is the arrangement we have with Mr. Postley.

Q Well, shouldn't it be Mr. Postley who makes the claim?

A No, no, it shouldn't be Mr. Postley.

Q Will you tell me why?

A Because the stock is exactly the stock that was delivered, and any accruals on it would belong to Tilney & Company, Inc., and Mr. Postley will so certify.

Q And do you say that all of this stock is now registered in the name of Mr. Postley?

A Yes.

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Q When did that transfer take place?

A That transfer took place on discussion with Mr. Postley because of the situation and because of the view that was being taken of this by the receivers. It was felt more prudent that he transfer the stock in his name since he had it properly assigned, and he did so.

Q What date, approximately?

A I don't know -- I would have to check.

Q Would it be in the summer of 1968?

A Oh, it probably was around that.

Q Some time after the receivership commenced?

A I don't know what date.

Q And right after that, after the commencement of the receivership, the stock was registered in your name?

A In my name.

MR. BENISCH: Your Honor, the purpose of this examination I think is clear. Up to the present time there has no divulging by Mr. Tilneey of the facts and circumstances surrounding these arrangement with Mr. Postley, to wit, what was owed and what was the subject of the repurchase agreement. In fact, the way this thing came to light was that the receiver received stock dividends on Tinker National Bank stock -- this was received some time during the spring of 1968 -- and when comparing the amount of the

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dividends as against the amount of the Tinker National Bank stock in his possession, he found that there was a great deal or a great number of excess shares of stock dividends, and so the first thing which he did was to inquire of Mr. Tilney, and then the story began to unfold about this stock in the possession of Mr. Postley.

I held an examination of Mr. Tilney last December 22 and attempted to elicit from him detailed statements with respect to this transaction, and at that time Mr. Tilney was not able to supply definite information with respect to this. So that it was my purpose here to ascertain and to give the Court the benefit of being privy to this, as to what took place with respect to the transfers of shares of stock, something over 7000 shares -- in fact, 7,712-1/2 shares of Marine Midland stock on the exchange, registered in the name of Mr. Tilney, assigned or allegedly under the agreement to repurchase -- allegedly assigned to Tilney & Company, Inc., an entity not under the scope of this receivership -- assigned at least by indication of the letter signed by Mr. Tilney, assigned on October 18, 1967, some months after Mr. Tilney and Tilney & Company were under the prohibition of an injunction from transferring assets.

As it turns, it may well be that the liability to

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Mr. Postley exceeds the value of the shares of stock which he holds, but that was a question which I did not know and which Mr. Tilney had not disclosed. There is a possibility that with fluctuations in the market these shares may increase to something in excess of what Mr. Postley is owed, in which case either the owner of Tilney & Company -- the owner being Frederick Tilney, should have the right to repurchase that and take down the excess value.

If, as Mr. Tilney states, at the present time there is a liability to Mr. Postley over and above the market value of the shares, and Mr. Postley's obligation is in some way indicated -- I am talking now about $450,250 -- I think the receiver would certainly be willing to let things stand with Mr. Postley.

However, up until the present time there has been no indication as to what has been owed -- whether there was an equity or whether there was a deficit, and that was the purpose of my examination here, your Honor.

I think that is subject to confirmation of Mr. Tilney's statements, meaning the amounts and a checking of the market value presently of the shares held by Mr. Postley -- subject to this further examination, it may well be that the receivers will attempt or request that the assignment be set aside and that Tilney & Company have the

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right to repurchase these shares, as wes the original agreement between Mr. Postley and Mr. Tilney.

Your Honor, if you have any questions I would be pleased to have them.

THE COURT: Does the SEC wish to inquire?

MR. ORMSTEN: No, the SEC does not wish to ask any questions of Mr. Tilney at this time.

Your Honor, may I have a moment to ask a question off the record of Mr. Benisch?

THE COURT: Yes.

(Mr. Ormsten confers with Mr. Benisch off the record.)

MR. ORMSTEN: Thank you, your Honor.

(Mr. Hogan confers with Mr. Benisch off the record.)

MR. BENISCH: Your Honor, Mr. Hogan has brought up, I think, a pertinent point. The receiver would request a stipulation a stipulation from Mr. Tilney that the books of Tilney & Company be made available to ascertain -- for the purpose of ascertaining the receipt of these moneys for Mr. Postley into the account of Tilney & Company.

BY MR. BENISCH:

Q Are there such records of this receipt?

A There are such records, bank records, book records

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it. The bankruptcy laws are of a different variety, but a violation of the Court's injunction is another problem.

MR. ORMSTEN: Your Honor, I am, of course, attentive and mindful to what the Court always says with respect to the Securities & Exchange Commission --

THE COURT: That is your sworn duty.

MR. ORMSTEN: Yes. In this connection I would like to introduce my remarks by calling to the attention not so much of the Court but of all the parties present that we have been receiving -- that is, the New York office of the Securities & Exchange Commission -- communcations from some of the creditors, and they are not simply communications pro forma but anguished cries for redress. We are acutely aware that some of them were directed to the office of Senator Stevens of Alaska in the United States Senate, and we are acutely aware, as I say, of our responsibility to the Court which the Court has reminded us of here today.

In that connection if I might, your Honor, as a part of what I think are the cardinal words which Mr. Benisch addressed to the Court at the conclusion of this morning's examination of Mr. Tilney, he spoke of the fact or he implied that this matter can be unduly protracted if we must -- and when I say that, even the Court itself, with all of its powers -- must take the time to minutely examine

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this problem very quickly. I would urge you to accept Mr. Ormsten's suggestion, and I would like to see this worked out.

I think we have come to the time when we have got to act, and I will entertain any application of the SEC concerning liquidation or any other facet concerning the disposition and liquidation of this estate.

I would further suggest to you that as soon as I have the proposed findings of fact and conclusions of law I will enter my decision concerning the application and the petition to expunge the claims.

MR. BENISCH: Your Honor, you want findings of fact and conclusions of law with respect to the merits of the claims themselves -- all the claims?

THE COURT: Every hearing, sir, requires findings of fact and conclusions of law, so I am giving all the parties here an opportunity to make proposed findings of fact and conclusions of law on the substance of the hearings. I shall adopt them or I shall reject them, but in any event, my decision will be entered shortly thereafter, so that you will have a disposition and a decision here concerning these claims.

MR. BENISCH: So that the parties are clear, the proposed findings of fact and conclusions of law are to be

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EXAMINATION BY MR. HOGAN:

Q Mr. Tilney, how many shares of Alaska State Bank do I as receiver hold, do you recall?

A You hold none for Tilney & Company. The Alaska State Bank was sold in a block at the very early inception of the receivership at $39 a share. The only stock you retain is the 200 shares belonging to Tilney & Company, Inc., which is so stated on their statements and on which a stock dividend of 20 shares was paid, or 10 per cent.

Q Do you know in whose name those shares are registered?

A Those shares are registered in the name of Tilney & Company, as were all the others.

MR. HOGAN: Will you repeat that for the Judge? Will you read that back, Mr. Reporter?

(Record read by the reporter.)

A (Continuing) I presume that you have not treansferred them into any other name.

Q But they were in your box at the Irving Trust Company, is that correct?

A They were.

Q And the receivers went to the box, perhaps during the first part of 1968, and removed the contents thereof, is that true?

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A That is correct.

Q And do you recall if the Alaska State Bank was there at that time?

A It was in a sealed envelope marked "Property of Tilney & Company, Inc."

Q The stock certificates themselves are registered in whose name?

A I presume they are still registered in the name of Tilney --

Q No, just tell me, they were registered in whose name in January of 1968?

A Tilney & Company.

Q They were never transferred at any time to Tilney & Company, Inc., is that correct?

A That is correct. They were in street name.

Q And they are still in Tilney & Company's name in my office, I am telling you that.

A Yes.

Q Now on what grounds do you base your claim that this stock belongs to Tilney & Company, Inc.?

A On the basis that the stock was transferred to Tilney & Company, Inc. on January the 2nd, 1967, the formation of that corporation, and was registered and certified by a certified public accountant as being so

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transferred.

Q Was it transferred on the books of the Alaska State Bank?

A No, it was not.

Q It was transferred on the Tilney & Company, Inc. books, is that correct?

A That is correct.

Q At your direction?

A At my direction.

Q Was any consideration given? Yes or no.

A Yes.

Q What was the consideration?

A Redemption of my capital account.

Q Redemption of the capital account -- a bookkeeping item, is that correct?

A Yes.

Q Any consideration in cash?

A No.

Q And at your direction an indication of transfer was made on the books of Tilney & Company, Inc. --

A And Tilney & Company.

Q But no request was made to transfer the shares with the transfer agent of the Alaska State Bank, is that correct?

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A That is correct.

Q What date was entry made in the books?

A I believe it was Janaury 2, 1967. I would have to look and see.

Q Not January 1968?

A No, not January 1968. We have a certified statement of an auditor as of that date that the transfer was made and filed with the Secretary of State of New York.

MR. HOGAN: Just bear with me for a moment, your Honor.

(Mr. Hogan confers.)

THE COURT: Mr. Ormsten, while Mr. Hogan is taking a brief pause, I should like you to send me a copy of Judge Mansfield's order.

MR. ORMSTEN: In connection with the other proceeding I referred to?

THE COURT: Yes.

MR. ORMSTEN: Yes, of course, your Honor.

THE COURT: And the transcript, if you have that in your possession.

MR. ORMSTEIN: If we have it I certainly will send it on to the Court.

THE COURT: Thank you.

MR. HOGAN: If the Court will permit while my

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mks

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff,	
vs.	67 Civil 4676
TILNEY & COMPANY, FREDERICK TILNEY, Defendants.	

Before:

HON. DAVID N. EDELSTEIN,

District Judge.

New York, May 26, 1970;
10.30 o'clock a.m.
(Room 618)

APPEARANCES:

JOSEPH C. HOGAN, ESQ., Receiver.

WAGNER, QUILLINAN & TENNANT, ESQS.,
Attorneys for Receiver;
Robert G. Benisch, Esq., of Counsel.

FRANKLIN ORMSTEN, ESQ.,
Attorney, Securities and Exchange Commission.

CADWALADER, WICKERSHAM & TAFT, ESQS.,
Attorneys for Frederick Tilney and Frederick Tilney & Co.;
Terence F. Gilheany, Esq., and
Michael A. McManus, Jr., Esq., of Counsel.

Also Present:

Mr. Frederick Tilney
Mrs. Dorothy Tilney
Mr. Jerry B. Klein

THE CLERK: Securities and Exchange Commission against Tilney.

THE COURT: Are you prepared to proceed, Mr. Benisch?

MR. BENISCH: Yes, your Honor.

The Court will recall that there were two matters to be taken up here at this meeting today. The first one which I would like to take up is the Tinker National Bank or the Marine Midland-Tinker National Bank proposal which I believe the Court has received an amended petition of Marine Midland-Tinker National Bank, requesting approval of certain transactions between the receivers, Mr. Tilney and Tinker..

Mr. Johnson of the firm of Gunnigle, Killian & Johnson telephone me this morning. Mr. Johnson is the attorney handling this for Marine Midland-Tinker National Bank, and he has advised me that it was impossible for him to get here today, but he felt that the submission

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Q Did you ever take the time to check to see how the stock was registered?

A No, I did not.

Q You say you never saw the shares?

A I never did.

Q And you never examined the shares of stock during that period as they lay in your safe deposit box in your bank?

A No, I never did, any more than I examined any other securities.

Q And yet you say you were the owner of these shares?

A That is right.

Q Weren't you concerned about any income and any tax liability on income received on those shares of stock?

A Yes.

Q Did you take steps to find out whether you should report dividends as a tax liability?

A No, I did not because the stock had not been registered in my name.

Q But you say you owned it?

A I did not own it.

Q Now you are saying, Mr. Postley, that there was nothing agreed orally or in writing between you and Mr. Tilney with respect to the ownership of the shares of

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stock on which dividends may have been declared --

A No.

Q -- or any cash dividends, is that correct?

A There was nothing --

THE COURT: What is your answer?

A There was nothing written or any mention about that.

Q Did you ever inquire of Mr. Tilney whether he had received any stock or cash dividends on these shares of stock?

A I don't believe I did.

BY THE COURT:

Q Were you familiar with the bank in which you had your shares that you purchased from Mr. Tilney?

A Was I familiar with the Long Island National?

Q Yes. Did you know anything about it?

A Yes, I knowof the stock and I knew it was a good investment.

Q Did you know whether or not the company paid any dividends?

A I didn't go into it. I was looking for capital gains --

Q I did not ask you whether you went into it for --

A No, I did not, sir.

Q And you made no inquiry to try to find out whether

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it was a dividend-paying company?

A No.

BY MR. BENISCH:

Q And you took no steps, did you, to deal with any proxy statements which you as a shareholder might have received and had the right to vote?

A No, I did not.

Q Now at the time that these shares of stock, the 4000 shares of Long Island National Bank were sold, what was the amount of the proceeds of the sale?

A The amount of the proceeds of the sale --

(After examining) $91,369.80.

Q That is somewhat less than the $94,000 which you paid for those shares of stock, is that correct?

A That is correct.

Q And how did you report this loss on your income tax return for that year?

A As a loss.

Q You took the loss on your return?

A I did.

Q For the tax year 1967?

A I did.

Q Do you have a copy of that year's tax return?

A No, not with me.

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Q Can you produce a copy of that tax return for examination?

A I can produce it.

MR. BENISCH: If the Court please, I would ask you to direct Mr. Postley to produce a copy of this.

THE COURT: I thought I already admonished Mr. Postley to produce all his records, books, papers of every kind, variety, nature and description. I think that is fairly comprehensive.

Don't you think so, Mr. Postley? You understand that?

THE WITNESS: Yes, but frankly I would not think of a tax return. I am a little naive at this sort of thing, believe me.

Q Mr. Postley, moving now to the shares of stock --

THE COURT: You are not so naive as not to know that this is a serious interrogation --

THE WITNESS: Right.

THE COURT: -- and that you are under oath.

THE WITNESS: I realize that, sir.

THE COURT: We will take a short recess.

(Short recess.)

BY MR. BENISCH:

Q Mr. Postley, you have testified that you are a

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trustee of several trusts, is that correct?

A That is right, family trusts.

Q And do those trusts hold investments in securities?

A That is right.

Q Do you buy and sell these as trustee?

A That is right.

Q How long have you been doing this, acting as trustee under these trusts?

A Since 1945.

Q And are these substantial trusts? Are the holdings in these trusts substantial?

A Yes, I would consider them so.

Q Are there many security transactions, purchases and sales of stock?

A No.

Q But you have acted as trustee, and in the capacity of a trustee you have purchased shares of stock for the benefit of these trusts, is that correct?

A That is correct.

Q And I would assume from that statement that when you purchased these shares of stock you presume to know what you are doing, don't you?

A I would say so.

Q As a trustee.

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A Yes.

Q And so perhaps you are not as naive in this area of purchases and sales of stock and stock transactions as you indicated to the Court, is that so?

A Might I correct that. I did not mean that I was naive particularly in the purchase and sale of stock. It was in the courtroom proceedings that I was naive.

Q Am I correct, did you testify that you had entered into this transaction, that is, the purchase of the 4000 shares of Long Island National Bank in the expectation of incurring capital gains?

A I thought I would, yes.

Q Will you explain to me how that sets with your statement that if Mr. Tilney had the right to buy the shares of stock at what you paid, there would be no capital gains?

A Or the market value at the time.

Q Let me get that straight. You say the agreement between you and Mr. Tilney was that Mr. Tilney could purchase the shares of stock back from you at what price?

A The then market price.

Q There was no fixed price?

A There was a fixed price, or if it was more advantageous to take the profit.

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Q I do not understand.

A Let us assume that I needed or wanted a loss for tax purposes.

Q Yes?

A Then you could take it at the price paid for it, or below.

Q What price would be below -- the market?

A Below what you paid for it.

Q Well, how did you determine that?

A We did not go that far to determine anything. We never did anything about it.

Q So then I do not understand --

BY THE COURT:

Q Let me understand you. Are you saying that if you decided a tax loss would be advantageous to you, and the unit price per share for the purposes of our discussion was $5, that you could arrange with Mr. Tilney to sell it for $3?

A No, sir, not that much.

Q Well, how much?

A You got me!

Q I do not know what you mean by "You got me." All I expect you to do is to answer my questions truthfully.

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A Well, will you phrase the question again, please, sir?

Q If you deciced you wanted a tax loss, since that is what you are talking about, under your loose, flexible arrangement with Mr. Tilney, could you arrange with him to sell the security back to him below the purchase price or below the market price in order to establish a tax loss?

A I couldn't say, sir. I dont know. I would have to ask Mr. Tilney. It never came up.

Q I do not know what you mean by "I couldn't say, I don't know." You were the one that testified about this loose, flexible arrangement and taking capital losses.

Is my question beyond your comprehension, or do you refuse to answer?

A No, I do not refuse to answer you, sir. I said that I could not tell whether Mr. Tilney would go along with that or not. I didn't ask him.

Q Well, what about you -- not Mr. Tilney. What if you decided that it was advantageous to take a tax loss under this arrangement, could you ask Mr. Tilney to re-purchase these shares of stock --

A I don't think I would.

Q -- either below the market price or below the

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purchase price?

A I don't think I would have unless I got in a terrible bind or something because I do not think that is the right thing to do.

BY MR. BENISCH:

Q So that according to your testimony now, Mr. Postley, there was no fixed price for the repurchase of these shares of stock agreed upon by you or Mr. Tilney, was there?

A I have a letter here --

THE COURT: Will you answer the question, please?

A There was price mentioned.

Q Where was that mentioned?

A When -- of $86 a share for 4000 shares. That was about what we paid for it -- a dollar over what we paid for it.

(After examining) No, exactly what we paid for it, $86.

Q You are referring to the 4000 shares of Long Island National?

A No, the Long Island National --

Q Please confine yourself to the Long Island National.

A Oh, I am sorry. There is no mention of any price on that at all, on Long Island National.

Q So that the shares were delivered to you, 4000 shares, you paid $94,000 for them, and they went into your account or your box at your bank --

A Yes.

Q -- and you did not know what or whereyou stood with respect to these shares of stock apparently.

A I kind of trusted Mr. Tilney's business, that he wouldn't have me gypped, so to speak, in the words of the vernacular.

Q But as a prudent businessman and as an experienced trustee, are you saying to this Court that you took in shares of stock under some loosely worded arrangement --

A That is right.

Q -- with somebody, and had no idea whatsoever as to the rights in anybody else to repurchase them or your right to sell them and at what price you could sell them?

A Yes, you can say that. I did that.

Q And you have testified, have you, that when these shares of stock were sold in November of 1967 that you took the tax loss incurred in the sale?

A That is right.

Q And what did you use as the basis for those shares of stock in reporting this tax loss?

A The cost.

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Q Is it your testimony that you have not discussed your testimony here today in the past with Mr. Tilney?

A That is absolutely true, I have not.

MR. BENISCH: I have no further questions.

THE CLERK: Anything further?

THE COURT: No further questions, gentlemen?

(No response.)

MR. BENISCH: I would just like to point out to the Court, as I think it is well aware, that there seem to be some inconsistencies here between the testimony of Mr. Tilney and the testimony of Mr. Postley.

THE COURT: The Court is well aware.

What else do you want to say? There are some very sharp conflicts of credibility under oath.

MR. BENISCH: Correct, sir.

THE COURT: Is there anything further, gentlemen?

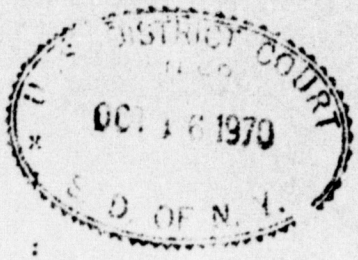
MR. BENISCH: Your Honor, there is one further question: The matter of a return date, or a hearing date for interim allowances. I would like to request at this time that the Court fix a date to bring on, by motion or order to show cause, these applications.

THE COURT: The Court will consider fixing a date at such time as the SEC has considered its readiness to participate in any such application, petition or discussion

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK



SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs. 67 Civ.4676

TILNEY & COMPANY and FREDERICK TILNEY,

Defendants.

Before:

HON. DAVID N. EDELSTEIN, District Judge.

New York, July 14, 1970
2:20 p.m.

APPEARANCES

FRANKLIN ORMSTEN, Esq.,
Attorney for SEC

WAGNER, QUILLINAN & TENNANT, Esqs.,
Attorneys for Receivers
By: ROBERT G. BENISCH, Esq.,
of Counsel.

JOSEPH C. HOGAN, Receiver.

I. ALAN HARRIS
Withdrawn Co-Receiver.

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respect to the one asset. The logjam would be alleviated if we could get a bid on the ASDC note. Because we, as you know, brought an action in the Supreme Court, Nassau County, wherein it was held that because there was no market for the ADDC note, that the bank's position might be jeopardized in a security position, and, therefore, it would not direct the sale of this note unless we had an offer, a firm offer upon which the bank could rely.

Mr. Hogan, in addition has been using all efforts by way of telephone communications and correspondence with the principals of the Alaska State Development Corporation to attempt to get a firm offer for the redemption of this note, at any price. 80 per cent of par or less. And to date, the best he's been able to obtain is an indication from the principals that they are willing to redeem it at 80 per cent par, providing they can get the consent or the approval of the Alaska State Attorney General, who acts as counsel for this quasi public corporation; that is, ASDC. And to date, the Alaska State Attorney General has indicated he requires a more up-to-date financial statement from the corporation.

MR. ORMSTEN: I wonder if I might just interrupt you for a moment, Mr. Benisch, for a general observation on the last two matters which have come before us.

I think they tie in together particularly with the very helpful explanation in respect of the Alaska State Development. I believe that the consensus here, and if I may, without appearing to be presumptuous, speak for the Court, there will come a day when we will have a hearing on fees, thereafter followed by this Court's decision.

It has been, in one form or another, Mr. Tilney's assertion implied that there are sufficient monies to wind up that matter, and it is solely a question of determining fees. I am cognizant that when this Court does reach a decision, it will be a decision as to interim allowances and cannot possibly be a final disposition. But I think, since it will be a decision going up to a fairly late date, you have some idea of where we stand.

Now, if it appears at that point certainly that more is required, and that more assets are required to be liquidated, then I would respectfully suggest, and this is merely a suggestion, that consideration at that time be given to the liquidation of those assets which are somewhat less arduous of liquidation than the Alaska State Development note, because if I may conclude with a footnote, though I favor the release of the monies of Long Island National Bank, there was some validity to the decision of the State Supreme Court of Nassau County in accepting the bank's arguments that

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unless you could receive a sum of money for the ASD note, their position would be somewhat jeopardized.

As well, I am aware in going after properties where you have a confession of judgment against Governmental Statistics, there may be questions of title, there may be liquidation, there may be further supplemental proceedings.

So I repeat, by way of conclusion, when we have an idea of what fees will be, and this Court has passed upon the applications, I then say we should look to those properties that we can obtain with minimum effort so that we can pay the people who naturally want their money.

MR. BENISCH: I agree with you, Mr. Ormsten, with the one reservation, that it appears that at the present time for one reason or another I feel safe in stating that there are no present assets that can be obtained or liquidated with a minimum effort, whatever that phrase "minimum effort" means.

MR.ORMSTEN: I withdraw that language and say if there is a scale of values in terms of notes that relatively require less effort, and therefore, to be explicit, the expenditure of less valuable time will ultimately manifest itself--

MR. BENISCH: If you are aware, the Commission, as well, that either by virtue of market conditions or the

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	
-against-	:	67 Civil Action File No. 4676
TILNEY & COMPANY, FREDERICK TILNEY,	:	ORDER
Defendants.	:	

At New York, in the said District, this day of July, 1970:

An application having been duly made by Joseph C. Hogan, Receiver of the assets of Tilney & Company and Frederick Tilney, by Order to Show Cause, upon notice to the Securities and Exchange Commission and Frederick Tilney, to show cause before this Court why an order should not be made authorizing said Receiver to sell certain real property located in Anchorage, Alaska and forming part of the Receivership estate, upon the terms and conditions more particularly set forth in the petition of Joseph C. Hogan dated February 10, 1970, and it appearing that said parcel of real property was bought by the Receivership estate for $14,019.84 at a foreclosure sale, acting under the belief that said property had a value in excess of the unpaid balance owing under a Deed of Trust and for the purpose of protecting the partial interest of Frederick Tilney resulting from his having made prior payments of the purchase price pursuant to said Deed of Trust, and it appearing from said petition that said property had been appraised as having a market value in December of 1969 of $45,000.00 and due notice of said application having been given to all of the above parties as provided by the Order

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of this Court, and that application having come on to be heard before this Court on February 24, 1970, and a hearing having been held thereon, and Joseph C. Hogan, Receiver, together with Wagner, Quillinan & Tennant, Robert G. Benisch, of counsel, his attorneys herein having appeared in support thereof, and the Securities and Exchange Commission, Franklin D. Ormsten, of counsel, having appeared and raised no objection thereto, provided the sale be conducted in accordance with the provisions of Title 28, Section 2001 of the United States Code and Frederick Tilney having appeared and filed an affidavit in opposition thereto, and no other opposition thereto having been made, and an Order of this Court dated April 8, 1970 having thereafter been made designated William Wakeland, M. G. Gebhart and David T. McCabe as independent appraisers to appraise said property, and the sworn oaths of each of said appraisers having been filed with this Court, and appraisals pursuant to said order having been submitted to the Court appraising said property in the amounts of $30,000, $14,800 and $26,000 respectively and a hearing on said appraisals having been had on motion of the Court on May 14, 1970 upon notice to all parties, and Joseph C. Hogan, Receiver, together with Wagner, Quillinan & Tennant, Robert G. Benisch, of counsel, the Securities and Exchange Commission, Franklin D. Ormsten, of counsel, and Cadwalader, Wickersham & Taft, Esqs., William Connelly, of counsel, attorneys for Frederick Tilney, and Frederick Tilney having appeared thereat and an Order of this Court dated May 15, 1970 having thereafter been made providing for the publication of a notice containing the terms of said proposed sale together with a solicitation of additional offers to purchase said

property and said notice having been published in accordance with said Order in the Anchorage Times on May 22, 23, and 25, 1970, and in the Anchorage Daily

ws on May 22, 23, 24 and 25, 1970, and proof of such publication having been
led herein, and the Court having made a Supplemental Order To Show Cause upon
e application of Robert G. Benisch, of counsel for the Receiver, for the
anting of the relief heretofore requested in the said petition of the Re-
iver, and due notice of said application having been given to all parties as
ovided in said Supplemental Order, and the application having come on to be
ard before this Court on July 14, 1970, and a hearing having been held thereon
d Joseph C. Hogan, Receiver, together with Wagner, Quillinan & Tennant,
ert G. Benisch, of counsel, having appeared in support thereof and the
curities and Exchange Commission, Franklin D. Ormsten, of counsel, having
eared and raised no objection thereto and Frederick Tilney and Cadwalader,
ckersham & Taft, his attorney, both having sent letters to this Court stating
ey have no objection to the granting of said application, and no other oppo-
tion thereto having been made and Wm. Wakeland, one of the designated
praisers herein having submitted an application herein for an appraisal fee
$350, and it appearing that said sum is fair and reasonable, and it further
pearing that it is in the best interest of the receivership estate that said
operty be sold upon the terms and conditions set forth in the said petition
the Receiver dated February 10, 1970, and it also appearing that the terms
d provisions of Title 28, Section 2001 (b) of the United States Code have been
mplied with, it is

3.

ORDERED, that the application of the Receiver herein be and the same
reby is granted in all respects, and it is further

ORDERED, that the Receiver herein be, and he hereby is authorized to
l the said real property on the terms set forth in the Receiver's petition

herein for the total sum of $32,000 payable as follows: $8,500 payable upon acceptance by the seller of the offer; $13,500 payable on or before 90 days from acceptance; $10,000 payable on or before 150 days from acceptance; buyer's notes to bear 6% interest per annum; Alaska Title Guarantee Company to hold deed in escrow until the buyer has tendered all monies; buyer to pay all closing costs, including broker's commission; and seller to pay cost of title insurance (estimated to be approximately $120), and it is further

ORDERED, that the Receiver pay to Wm. Wakeland as and for his appraisal fee herein the sum of $350.

U. S. D. J.

New York, New York
July 24, 1970

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiffs,	
- against -	ORDER
TILNEY & COMPANY, FREDERICK TILNEY,	67 Civil Action
Defendants	File No. 4676

AT NEW YORK, IN THE SAID DISTRICT, THIS DAY OF , 1970:

MARINE MIDLAND TINKER NATIONAL BANK, having on or about the 24th day of December, 1969, and on or about the 26th day of May, 1970, filed a petition and amended petition respectively, from which petition and amended petition, it appears:

That TILNEY & COMPANY and FREDERICK TILNEY, the defendants above named, are duly indebted to the petitioner for $100,000.00 for which a claim was filed by the petitioner against the Receiver herein to the extent of $100,000.00 exclusive of interest.

That said indebtedness represents the proceeds of an unsecured loan made by the petitioner to FREDERICK TILNEY and DOROTHY TILNEY on January 3, 1966 in accordance with their duly executed promissory note on said date made and delivered by FREDERICK TILNEY to the petitioner and guaranteed by DOROTHY TILNEY, his wife, and

It further appearing that no part of said unsecured principal indebtedness has been paid except the sum of Two Thousand $2,000.00) Dollars.

That the defendants are not entitled to any other credits or offsets against the principal amount of $98,000.00 then remaining, and the petitioner having caused an analysis to be made

of the assets and liabilities of the defendants above named, from which it appears, in the opinion of the petitioner, that the defendants are solvent, and the petitioner having accordingly applied to this court for an order authorizing and permitting the Receiver herein to mortgage or to consent to mortgage, as the case may be, certain real property described as follows:

ALL those certain plots, pieces or parcels of land situate, lying and being at Norwich, Town of Oyster Bay, County of Nassau, State of New York, more particularly designated as Lots 23 to 28, both inclusive, and Lots 41 to 59, both inclusive, as shown on a certain map entitled, "Map of Griffin Terrace, East Norwich, Town of Oyster Bay, Nassau County, New York, July 1929, Lewis N. Waters, C.E. & S., Oyster Bay, L.I." and filed in the office of the Clerk of the County of Nassau on August 15, 1929 as Map No. 1008, New Map No. 2797.

to the petitioner herein granting thereby to the petitioner a first mortgage lien on said property and to apply said mortgage by the petitioner in reduction of the indebtedness against the Receiver to the extent of $98,000.00, and

It further appearing from the petition and exhibits thereto attached that the real property hereinabove referred to as unimproved and currently appraised by Senator Leon E. Giuffreda at $103,500.00 and formerly appraised by ~~this court's~~ appraiser at $82,500.00 in the Receivership proceeding and the petitioner having further caused a search of the title of said real property to have been made by the Chicago Title Insurance Company, Home Title Division under title #70-N-00627, and said title report having been submitted to this court, and

It further appearing therefrom that title is certified to be in FREDERICK TILNEY, JR., who is the same person as the defendant hereinabove named as is further disclosed by the affidavit of said FREDERICK TILNEY, JR., a/k/a FREDERICK TILNEY, submitted herewith, and

It further appearing that the mortgage sought by the petitioner would be for the best interests of the Receivership estate and the court having entertained the petition and no opposi-

tion having been made thereto, and due deliberation having been had therein,

NOW, on motion of GUNNIGLE, KILLIAN AND JOHNSON, the attorneys for the petitioner, it is hereby

ORDERED, that JOSEPH C. HOGAN, Receiver herein, and FREDERICK TILNEY, JR. also known as FREDERICK TILNEY, make, execute and deliver to the ~~Receiver~~ Petitioner a bond and mortgage in the manner and form annexed hereto covering the real property, described as follows:

ALL those certain plots, pieces or parcels of land situate, lying and being at Norwich, Town of Oyster Bay, County of Nassau, State of New York, more particularly designated as Lots 23 to 28, both inclusive and Lots 41 to 59, both inclusive, as shown on a certain map entitled, "Map of Griffin Terrace, East Norwich, Town of Oyster Bay, Nassau County, New York, July 1929, Lewis N. Waters, C.E. & S. Oyster Bay, L.I.," and filed in the office of the Clerk of the County of Nassau on August 15, 1929 as Map No. 1008, New Map No. 2797,

in full payment and satisfaction of the claim of said MARINE MIDLAND TINKER NATIONAL BANK and of its claim of $98,000.00 plus any and all interest thereon against the Receivership estate heretofore filed, only, provided, however, that simultaneously with the execution of such bond and mortgage by the Receiver and said FREDERICK J. TILNEY, JR., that the petitioner execute and deliver to the Receiver its undertaking and indemnification against any loss or damage to the Receivership estate or any liability of the Receiver occasioned by or ensuing from the mortgage on such real property to be made hereunder and further provided that simultaneously with such execution of the mortgage, MARINE MIDLAND TINKER NATIONAL BANK, the petitioner herein, pay to JOSEPH C. HOGAN, as Receiver, as aforesaid, the sum of $5500.00 representing a further consideration payable by the petitioner to the Receiver for such mortgage directed to be made hereunder and further provided, that simultaneously with such execution of the mortgage, MARINE MIDLAND TINKER NATIONAL BANK pay to JOSEPH C. HOGAN, as Receiver, as aforesaid, the sum of $4,828.10 representing

real estate taxes against the subject real property heretofore paid by said JOSEPH C. HOGAN as Receiver as aforesaid on March 18, ~~1970~~ 1970 and ~~April~~ June 1, 1970;

That the amount of such mortgage shall be $108,328.10, consisting of the following:

Petitioners claim $98,000.00.	
Consideration to be advanced by petitioner on reappraisal	$ 5,500.00
Real estate taxes paid by receiver to be reimbursed by petitioner	$ 4,828.10
	$108,328.10

That any and all other or additional real estate taxes that are due or may become due with respect to such property shall not be a liability of the receivership estate and that the mortgage contemplated to be made herein shall not be foreclosed without further order of the Court.

s/ David Edelstein
U. S. D. J.

Dated: New York
July 31, 1970

AGREEMENT made this 28th day of April, 1970 among MARINE MIDLAND TINKER NATIONAL BANK, having its principal office at Main Street, East Setauket, New York (hereinafter called "Tinker"), FREDERICK TILNEY, residing at Sundown, Centre Island, New York (hereinafter called "Tilney") and JOSEPH C. HOGAN, as Receiver of the assets of Frederick Tilney and Tilney & Company (hereinafter called the "Receiver"),

W I T N E S S E T H :

WHEREAS, by order, of the United States District Court for the Southern District of New York, the assets of Frederick Tilney and Tilney & Company have been placed under the administration and control of the Receiver, and

WHEREAS, Frederick Tilney and ~~Tilney & Company~~ Dorothy M. Tilney are allegedly indebted to Tinker in the sum of $114,979.18, and

WHEREAS, Tinker has filed with the Receiver a proof of claim against the assets of Frederick Tilney and Tilney & Company to the extent of ~~$100,000~~ $98,000.00 of said alleged indebtedness, the amount of which claim is undisputed by the Receiver and Tilney, and

WHEREAS, Tilney is the fee owner of certain real property located in East Norwich, Long Island, New Yo. as hereinafter more particularly described,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby agree as follows:

1. Tilney and the Receiver shall execute and deliver to Tinker in recordable form a first mortgage to the following described real property:

> ALL those certain plots, pieces or parcels of land situate, lying and being at Norwich, Town of Oyster Bay, County of Nassau, State of New York, more particularly designated as Lots 23 to 28, both inclusive, and Lots 41 to 59, both inclusive, as shown on a certain map entitled, "Map of Griffin Terrace, East Norwich, Town of Oyster Bay, Nassau County, New York, July 1929, Lewis N. Waters, C.E. & S., Oyster Bay, L.I.," and filed in the office of the Clerk of the County of Nassau on August 15, 1929 as Map No. 1008, New Map No. 2797..

2. Upon delivery of said mortgage Tinker shall withdraw its aforesaid claim filed against the receivership estates of Frederick Tilney and Tilney & Company and shall unconditionally release said receivership estates and the Receiver of and from all liability to it whatsoever.

3. Upon delivery of said mortgage Tinker shall pay to the Receiver the sum of $5,500 and shall reimburse the Receiver for all real estate taxes imposed on said real property heretofore paid by the Receiver.

4. In the event that the assets of the receivership estates are insufficient to pay the full amount of all just claims against it, including expenses of administration, Tinker shall pay to the Receiver upon demand an amount which when subtracted from the sum of $103,500 will make the prorated value of the distribution received by Tinker

hereunder equal to the prorated share received by each other creditor of the receivership estates.

5. Nothing herein contained shall prevent Tinker after the winding up and conclusion of the receivership proceeding from claiming, by legal action or otherwise, against Frederick Tilney and/or Tilney & Company, Dorothy M. Tilney for additional amounts due Tinker as a result of the transaction underlying Tinker's aforesaid claim against the receivership estates.

6. The terms of this Agreement shall survive the delivery of the mortgage hereinabove mentioned.

7. The terms and provisions of this Agreement are subject to the approval of the United States District Court for the Southern District of New York. In the event such approval is not forthcoming this agreement shall be null and void and the contents hereof shall give rise to no rights or liabilities as among the parties hereto.

8. This Agreement may be amended only by written agreement of all the parties hereto.

9. The terms of this agreement shall apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties.

10. This Agreement and the rights of the respective parties hereunder shall be interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto have hereunto

set their hands and seals the day and year first above written.

Attest:

Albert Lurasso

MARINE MIDLAND TINKER NATIONAL BANK

By _____

FREDERICK TILNEY

_____

JOSEPH C. HOGAN

Standard N.Y.B.T.U. Form 8022 FM 1 — Bond (Individual) — Corporate Obligor or Instrument

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

KNOW ALL MEN BY THESE PRESENTS,

That FREDERICK TILNEY, JR., residing at Sundown, Centre Island, New York, and

JOSEPH C. HOGAN, as Receiver of the assets of Frederick Tilney and Tilney & Company, 29 Broadway, New York, New York

hereinafter designated as the obligor, does hereby acknowledge the obligor to be justly indebted to MARINE MIDLAND TINKER NATIONAL BANK, a national banking institution duly organized and existing under and by virtue of the laws of the United States of America, having its principal place of business at Main Street, East Setauket, New York

hereinafter designated as the obligee, in the sum of ONE HUNDRED ~~FIFTEEN~~ EIGHT THOUSAND ~~ONE~~ THREE HUNDRED TWENTY EIGHT AND 10/100 ($1~~03~~,328.10)---------- Dollars,

lawful money of the United States, which sum said obligor does hereby jointly and severally covenant to pay the said obligee, and the executors, administrators, successors or assigns of the obligee, on demand

with interest thereon to be computed from the date hereof at the rate of 7-1/2 per centum per annum ~~and to be paid on the ---------- day of ---------- 19---, next ensuing and~~

IT IS HEREBY EXPRESSLY AGREED, that the said principal sum shall at the option of the obligee become due on the happening of any default or event by which, under the terms of the mortgage securing this bond said principal sum may or shall become due and payable; also, that all of the covenants, conditions and agreements contained in said mortgage are hereby made part of this instrument.

This bond may not be changed or terminated orally. The word "obligor" or "obligee" shall be construed as if it read "obligors" or "obligees" whenever the sense of this instrument so requires.

DATED the day of 1970

IN PRESENCE OF:

Frederick Tilney, Jr.

Joseph C. Hogan, Receiver

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Standard N.Y.B.T.U. Form 8014—20M "3"—First Mortgage—Individual or Corporation.

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS MORTGAGE, made the day of , nineteen hundred and seventy

BETWEEN FREDERICK TILNEY, JR., residing at Sundown, Centre Island, New York, and

JOSEPH C. HOGAN, as Receiver of the assets of Frederick Tilney and Tilney & Company, 29 Broadway, New York, New York

, the mortgagor,

and MARINE MIDLAND TINKER NATIONAL BANK, a national banking institution, duly organized and existing under and by virtue of the laws of the United States of America, having its principal place of business at Main Street, East Setauket, New York

, the mortgagee,

WITNESSETH, that to secure the payment of an indebtedness in the sum of ONE HUNDRED ~~FIFTEEN~~ FIFTY THOUSAND ~~EIGHT~~ HUNDRED TWENTY EIGHT AND 10/100 ($108,328.10) dollars,

lawful money of the United States, to be paid on demand

with interest thereon to be computed from the date hereof, at the rate of 7-1/2 per centum per annum, ~~and to be paid on the ---- day of ---- 19 ---- ; next ensuing and thereafter,~~

according to a certain bond,

note or obligation bearing even date herewith, the mortgagor hereby mortgages to the mortgagee

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being ~~in the~~ at Norwich, Town of Oyster Bay, County of Nassau, State of New York, more particularly designated as Lots 23 to 28 both inclusive, and Lots 41 to 59, both inclusive, as shown on a certain map entitled, "Map of Griffin Terrace, East Norwich, Town of Oyster Bay, Nassau County, New York, July 1929, Lewis N. Waters, C.E.&S., Oyster Bay, L.I.," and filed in the office of the Clerk of the County of Nassau on August 15, 1929 as Map No. 1008, New Map No. 2797.

TOGETHER with all right, title and interest of the mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;

TOGETHER with all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including but not limited to furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto;

TOGETHER with all awards heretofore and hereafter made to the mortgagor for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for changes of grade of streets, which said awards are hereby assigned to the mortgagee, who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor, and to apply the same toward the payment of the mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the said mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning said awards to the mortgagee, free, clear and discharged of any encumbrances of any kind or nature whatsoever.

AND the mortgagor covenants with the mortgagee as follows:

1. That the mortgagor will pay the indebtedness as hereinbefore provided.

2. That the mortgagor will keep the buildings on the premises insured against loss by fire for the benefit of the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.

3. That no building on the premises shall be altered, removed or demolished without the consent of the mortgagee.

4. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any instalment of principal or of interest for fifteen days; or after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbefore provided; or after default upon request in furnishing a statement of the amount due on the mortgage and whether any offsets or defenses exist against the mortgage debt, as hereinafter provided. An assessment which has been made payable in instalments at the application of the mortgagor or lessee of the premises shall nevertheless, for the purpose of this paragraph, be deemed due and payable in its entirety on the day the first instalment becomes due or payable or a lien.

5. That the holder of this mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.

6. That the mortgagor will pay all taxes, assessments, sewer rents or water rates, and in default thereof, the mortgagee may pay the same.

7. That the mortgagor within five days upon request in person or within ten days upon request by mail will furnish a written statement duly acknowledged of the amount due on this mortgage and whether any offsets or defenses exist against the mortgage debt.

8. That notice and demand or request may be in writing and may be served in person or by mail.

9. That the mortgagor warrants the title to the premises.

10. That the fire insurance policies required by paragraph No. 2 above shall contain the usual extended coverage endorsement; that in addition thereto the mortgagor, within thirty days after notice and demand, will keep the premises insured against war risk and any other hazard that may reasonably be required by the mortgagee. All of the provisions of paragraphs No. 2 and No. 4 above relating to fire insurance and the provisions of Section 254 of the Real Property Law construing the same shall apply to the additional insurance required by this paragraph.

11. That in case of a foreclosure sale, said premises, or so much thereof as may be affected by this mortgage, may be sold in one parcel.

12. That if any action or proceeding be commenced (except an action to foreclose this mortgage or to collect the debt secured thereby), to which action or proceeding the mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this mortgage (including reasonable counsel fees), shall be paid by the mortgagor, together with interest thereon at the rate of six per cent. per annum, and any such sum and the interest thereon shall be a lien on said premises, prior to any right, or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this mortgage, and shall be deemed to be secured by this mortgage. In any action or proceeding to foreclose this mortgage, or to

13. That the mortgagor hereby assigns to the mortgagee the rents, issues and profits of the premises as further security for the payment of said indebtedness, and the mortgagor grants to the mortgagee the right to enter upon and take possession of the premises for the purpose of collecting the same and to let the premises or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of said indebtedness. This assignment and grant shall continue in effect until this mortgage is paid. The mortgagee hereby waives the right to enter upon and take possession of said premises for the purpose of collecting said rents, issues and profits, and the mortgagor shall be entitled to collect and receive said rents, issues and profits until default under any of the covenants, conditions or agreements contained in this mortgage, and agrees to use such rents, issues and profits in payment of principal and interest becoming due on this mortgage and in payment of taxes, assessments, sewer rents, water rates and carrying charges becoming due against said premises, but such right of the mortgagor may be revoked by the mortgagee upon any default, on five days' written notice. The mortgagor will not, without the written consent of the mortgagee, receive or collect rent from any tenant of said premises or any part thereof for a period of more than one month in advance, and in the event of any default under this mortgage will pay monthly in advance to the mortgagee, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of said premises or of such part thereof as may be in the possession of the mortgagor, and upon default in any such payment will vacate and surrender the possession of said premises to the mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.

14. That the whole of said principal sum and the interest shall become due at the option of the mortgagee: (a) after failure to exhibit to the mortgagee, within ten days after demand, receipts showing payment of all taxes, water rates, sewer rents and assessments; or (b) after the actual or threatened alteration, demolition or removal of any building on the premises without the written consent of the mortgagee; or (c) after the assignment of the rents of the premises or any part thereof without the written consent of the mortgagee; or (d) if the buildings on said premises are not maintained in reasonably good repair; or (e) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the premises within three months from the issuance thereof; or (f) if on application of the mortgagee two or more fire insurance companies lawfully doing business in the State of New York refuse to issue policies insuring the buildings on the premises; or (g) in the event of the removal, demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances thereon and free from any reservation of title thereto; or (h) after thirty days' notice to the mortgagor, in the event of the passage of any law deducting from the value of land for the purpose of taxation any lien thereon, or changing in any way the taxation of mortgages or debts secured thereby for state or local purposes; or (i) if the mortgagor fails to keep, observe and perform any of the other covenants, conditions or agreements contained in this mortgage.

15. That the mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

Strike out this clause 16 if inapplicable.

~~16. – That the execution of this mortgage has been duly authorized by the board of directors of the mortgagor.~~

This mortgage may not be changed or terminated orally. The covenants contained in this mortgage shall run with the land and bind the mortgagor, the heirs, personal representatives, successors and assigns of the mortgagor and all subsequent owners, encumbrancers, tenants and subtenants of the premises, and shall enure to the benefit of the mortgagee, the personal representatives, successors and assigns of the mortgagee and all subsequent holders of this mortgage. The word "mortgagor" shall be construed as if it read "mortgagors" and the word "mortgagee" shall be construed as if it read "mortgagees" whenever the sense of this mortgage so requires.

IN WITNESS WHEREOF, this mortgage has been duly executed by the mortgagor.

IN PRESENCE OF:

Frederick Tilney, Jr.

577

Joseph C. Hogan, Receiver

STATE OF NEW YORK, COUNTY OF SUFFOLK SS:

On the day of 1970 before me personally came FREDERICK TILNEY, JR.

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Notary Public

STATE OF NEW YORK, COUNTY OF SS:

On the day of 1970, before me personally came JOSEPH C. HOGAN

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Notary Public

STATE OF NEW YORK, COUNTY OF SS:

On the day of 19 , before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the ;
of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed h name thereto by like order.

STATE OF NEW YORK, COUNTY OF SS:

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows ;

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Mortgage

TITLE NO.

TO

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

CHICAGO TITLE INSURANCE COMPANY HOME TITLE DIVISION

SECTION

BLOCK

LOT

COUNTY OR TOWN

Recorded at Request of
CHICAGO TITLE INSURANCE COMPANY
HOME TITLE DIVISION

Return by Mail to

Zip No.

THIS SPACE FOR USE OF RECORDING OFFICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

TILNEY & COMPANY,
FREDERICK TILNEY,

Defendants.

Civil Action 67
File No. 4676

AFFIDAVIT

FREDERICK TILNEY, being duly sworn, deposes and says:

That he is the fee owner of premises described in Schedule A annexed hereto.

That he is sometimes known as FREDERICK TILNEY, JR.

That he is the same person who acquired title to such property by deed dated September 23, 1952 recorded October 15, 1952 in Liber 5013 cp 336 made by North Shore Bank Trust Company.

That said certified owner and your deponent, the defendant herein, is one and the same person.

Frederick Tilney

Sworn to before me this
15 day of April, 1970.

Notary Public

STEPHANIE T. MAIESKI
NOTARY PUBLIC, State of New York
No. 52-2483150, Suffolk County
Term Expires March 30, 1971

Number 70 A 00627

COMMITMENT FOR TITLE INSURANCE
Issued by
CHICAGO TITLE INSURANCE COMPANY

Chicago Title Insurance Company, a Missouri corporation, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate nine months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.

CHICAGO TITLE INSURANCE COMPANY

By Allan W. Fors
President

Attest: Chester C. McCullough
Secretary

Countersigned by:

A. Sorcio
(Mineola Office)
whose telephone number is: (516) PI-2-5000
(212) PI-7-2112

This commitment is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this commitment. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

Copyright, 1966, American Land Title Association

70 N 00627

SCHEDULE A

1. Effective date: March 10, 1970 redated: by
redated: by

2. Policy or Policies to be issued:

(a) _____ Owner's Policy, NYBTU, 100D $_____

Proposed Insured:

(b) ____x____ Loan Policy, NYBTU, 100D $103,000.00

Proposed Insured: Marine Midland Tinker National Bank

(c) _____ Policy $_____

Proposed Insured:

3. Title to the fee simple estate or interest in the land described or referred to in this commitment is at the effective date hereof vested in:

Frederick Tilney, Jr. Title acquired under deed dated September 23, 1952, recorded on October 15, 1952 in Liber 5013 cp 336, made by North Shore Bank Trust Company.

4. The land referred to in this Commitment is described as follows: (If not described here, as on the description sheet next attached herein.)

See Description attached.

mfm

TITLE NO. 70 M 00627

DESCRIPTION

Section 37 Block M on the Land and Tax Map of Nassau County

ALL those certain plots, pieces or parcels of land situate, lying and being at Norwich, Town of Oyster Bay, County of Nassau, State of New York, more particularly designated as Lots 23 to 28, both inclusive, and Lots 41 to 59, both inclusive, as shown on a certain map entitled,"Map of Griffin Terrace, East Norwich, Town of Oyster Bay, Nassau County, New York, July 1929, Lewis N. Waters, C.E. & S., Oyster Bay, L.I.," and filed in the Office of the Clerk of the County of Nassau on August 15, 1929 as Map No. 1908, New Map No. 2797.

SCHEDULE B

Schedule B of the policy or policies to be issued will contain exceptions as to items 1 through 7, inclusive, and to all subsequent matters unless the latter are disposed of to the satisfaction of the Company.

1. Defects and encumbrances arising or becoming a lien after the date of the policy to be issued, except as therein provided.

2. Consequences of the exercise and enforcement or attempted enforcement of any governmental war or police powers over the premises.

3. Zoning restrictions or ordinances imposed by any governmental body.

4. Judgments against the insured or estates, interests, defects, objections, liens or encumbrances created, suffered, assumed or agreed to by or with the privity of the insured.

5. Title to any property beyond the lines of the premises, or title to areas within or rights or easements in any abutting streets, roads, avenues, lanes, ways or waterways, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement, unless this commitment specifically provides that such titles, rights, or easements are insured. Notwithstanding any provisions in this paragraph to the contrary, the policy to be issued, unless otherwise excepted in this commitment, will insure the ordinary rights of access and egress belonging to abutting owners.

6. Compliance by the buildings or other erections upon the premises or their use with Federal, State and Municipal laws, regulations and ordinances. (Any departmental searches which may be reported herein are furnished for information only.)

7. Title to any personal property, whether the same be attached to or used in connection with said premises or otherwise. (No search has been made for financing statements except as may have been ordered and reported separately.)

8. If the application is for insurance under a master or blanket policy all of the following items under this Schedule B will be excepted from coverage in the Certificate of Title Insurance to be issued hereon unless disposed of to the satisfaction of the Company on or prior to closing.

9. The identity of parties at the closing of this title should be established to the satisfaction of the closer.

10. Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law and such covenant must be absolute and not conditional. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.

11. When the transaction is an assignment of a mortgage or other lien, an estoppel certificate executed by the owner of the fee and by the holders of all subsequent encumbrances must be obtained. When the transaction is a mortgage, the amount actually advanced should be reported to the Company.

12. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

13. If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor, there must be compliance with Section 909 of the Business Corporation Law. We will require the written consent to such conveyance or lease by all of the holders of the outstanding shares of the said corporation and the instrument on closing should so recite. In lieu thereof the consent of the holders of two-thirds of all of the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is required and the instrument on closing should so recite.

If neither of the above is obtained, then, the proofs showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.

14. If the present transaction consists in whole or in part of the making of a new mortgage there must be compliance with Section 911 of the Business Corporation Law. We will require a certified copy of the resolution of the board of directors of any corporate mortgagor authorizing the making of said mortgage.

Proof must also be shown that the consent of stockholders of the mortgagor corporation is not required by its certificate of incorporation or amendments thereto for the making of said mortgage.

The mortgage should contain a recital showing that it was made and executed pursuant to the resolution of the board of directors of the mortgagor.

15. If this commitment requires a conveyance of the fee estate and the contract therefor has not been submitted to the Company, it should be furnished for consideration prior to closing.

- continued -

AIE

SCHEDULE B (Continued) 70 X 00627

16. Proof is required to show that
and has not been known by any other name in the 10 years last past. If she has been known by another name, all searches must be extended and run against such name and title is subject to such facts as such extended searches may disclose.

17. (no) mortgages and assignments thereof as described in the Schedules annexed

18. Taxes, assessments, water rates and sewer charges as set forth in the Schedules annexed

19. Rights of present tenants, lessees or parties in possession

20. Survey: None. Except any state of facts and accurate survey may show.

21. The exact distances, dimensions and locations of the boundary lines of the premises herein described cannot be guaranteed without a survey acceptable and approved by the Law Department of this Company.

22. Under certain circumstances mortgage policies will except compliance with the Federal Truth in Lending Act. The exact nature of the transaction must be reported to the Company.

23. Proof is required to show that the person executing deed at closing is the same person as the grantee in deed Liber 5013 cp 336, the certified owner herein.

24. The following judgment appears to be against the party in the chain of title and it must be satisfied of record in the County Clerk's Office.

Dr. John L. Mara
d/b/a Mara Animal Hospital
448 W. Jericho Tpke.
Huntington, N.Y.
VS
Frederick Tilney, Jr.
a/k/a Frederick Tilney
Dorothy Tilney
Center Island Road
Center Island, N.Y.

Judgment: $1210.59
Docketed: 6/10/68
Perfected: 5/10/68
4th Dist. Nassau Ct
Atty: Richard M. Klein
780 New York Ave.
Huntington, N.Y.

-continued-

SCHEDULE B CONTINUED,

25. Notice of Federal Tax Lien Register No. 29541 against Frederick Tilney and Dorothy Tilney, d/b/a Tilney & Tilney, Center Island, N.Y. for income tax Total Amount $813.22, Collector's No. C.C. 17: C.G 264-3374-Manhattan, Dated: 9/27/68 and Filed: 9/30/68.

This notice of Federal Tax Lien appears to be against the party in the chain of title and it must be discharged and cancelled of record in said recording office.

26. Notice of Federal Tax Lien Register No. 28380 against the above captioned parties for income tax Total Amount $1334.32, Collector's No. C.C. 264-3374-Manhattan, Dated: 2/2/68 and Filed: 2/5/68.

This notice of Federal Tax Lien appears to be against the party in the chain of title and it must be discharged and cancelled of record in said recording office.

Title read by Mr. A. Sorcio
who may be reached at:
(516) FI-2-5000
(212) FI-7-2112

Chicago Title Insurance Company
Title No. 70 N 00627

MORTGAGES

Mortgagor

NONE OF RECORD

Mortgagee

Amount $ Dated

Recorded

This commitment does not purport to show all the terms and provisions of the above mortgage(s).

Chicago Title Insurance Company

TAXES, ASSESSMENTS, WATER RATES AND SEWER CHARGES
which are liens on real property

Approved: OK

Title No. 70-N-00627

SCHOOL DISTRICT 8 TOWN OF Oyster Bay
NASSAU COUNTY LAND AND TAX MAP: SECTION 27 BLOCK M LOT(s): 23 to 28, 41 to 59

ASSESSED VALUE (County) $1420-1420 vs lot 23, $810-810 EACH LOT vs lots 24 to 28
$9995-9995 vs lots 41 to 59

VILLAGE - None

ASSESSED VALUE (Village) $ -

V DISPOSED OF	RETURNS

(Some of the items returned hereon may have been paid but payment not officially posted. Receipts for such items should be produced on closing.)

1970 Town, 1st½ a lien 1/1/70 - 2nd½ a lien 7/1/70

1st½ tax	2nd½ tax
$45.85 OPEN + int.	$45.85 OPEN vs lot 23
$26.16 EACH LOT OPEN + INT....	$26.16 EACH LOT OPEN vs lots 24/28
$322.74 OPEN + int.	$322.74 OPEN vs lots 41/59

1969-70 School, 1st½ a lien 10/1/69 - 2nd½ a lien 4/1/70

1st½ tax	2nd½ tax
$62.21 OPEN + int.	$62.20 OPEN vs lot 23
$35.48 EACH LOT OPEN + int...	$35.48 EACH LOT OPEN vs lots 24/28
$437.83 OPEN + int.	$437.83 OPEN vs lots 41/59

ARREARS:

1969 Town and) SOLD 2/16/70 to Tax Sale Buyer shown below for
1968-69 School) amounts shown @ rate of interest shown as set forth against respective certificate numbers:

Lot#	To whom SOLD	Amt. SOLD FOR	Interest	Cert. #
23	Phillip S. Hirshik	$238.96	10%	223
24	Charles Solomon	$138.88	1%	224
25	Charles Solomon	$138.88	1%	225
26	Charles Solomon	$138.88	1%	226
27	Charles Solomon	$138.88	1%	227
28	Charles Solomon	$138.88	1%	228
41/59	Paul M. Friedman	$1645.76	7%	229

SEE SHEET FOLLOWING FOR ADDITIONAL TAX ARREARS.....

Our policy does not insure against taxes, water rates, assessments, and other matters relating to taxes which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises to be insured abut.

Form 45-5A

ARREARS CONTINUED:

23

8 Town - SOLD 2/17/69 to Chas. Solomon for $93.28 @5% on Cert. #201
7-68 School - Full tax Paid by TSA (Cert. #0135) - Amt. $101.24 Paid on 6/21/68 - @3%

7 Town &) SOLD 2/19/68 to David Rand for $291.66 @3% on Cert. #
6-67 School) 0135 & affidavit of compliance filed 12/11/69 - $25.00*
*Deed can be taken at any time.

24

8 Town &) SOLD 2/17/69 to Chas. Solomon for $118.18 @3% on Cert. #202
7-68 School)

7 Town &) SOLD 2/19/68 to Chas. Solomon for $116.75 @2% on Cert. #0136
6-67 School) & affidavit of compliance filed 12/19/69. - $5.00*
*Deed can be taken 3/19/70.

25

Town &) SOLD 2/17/69 to Chas. Solomon for $118.18 @3% on Cert. #203
7-68 School)

Town &) SOLD 2/19/68 to Chas. Solomon for $116.75 @2% on Cert. #0137
6-67 School) & affidavit of compliance filed 12/19/69 - $5.00*
*Deed can be taken 3/19/70.

26

Town &) SOLD 2/17/69 to Chas. Solomon for $118.18 @3% on Cert.
7-68 School) #204

Town &) SOLD 2/19/68 to Chas. Solomon for $116.75 @2% on Cert. #0138
6-67 School) & affidavit of compliance filed 12/19/69 - $5.00*
*Deed can be taken 3/19/70

27

Town &) SOLD 2/17/69 to Chas. Solomon for $118.18 @ 3% on Cert. #205
-68 School)

Town &) SOLD 2/19/68 to Chas. Solomon for $116.75 @2% on Cert. #0139
-67 School) & affidavit of compliance filed 12/19/69. - $5.00.*
*Deed can be taken 3/19/70.

28

Town &) SOLD 2/17/69 to Chas. Solomon for $118.18 @3% on Cert. #206
-68 School)

Town &) SOLD 2/19/68 to Chas. Solomon for $116.75 @2% on Cert. #0140
-67 School) & affidavit of compliance filed 12/19/69 - $5.00*
*Deed can be taken 3/19/70.

41 to 52

Town - SOLD 2/17/69 to Chas. Solomon for $644.48 @3% on Cert. #207
-68 School - Full tax Paid by TSA on 6/21/68 - Amt. $712.69 @3%
Town &) SOLD 2/19/68 to David Rand for $1395.24 @3% on Cert. #0141
-67 School) & affidavit of compliance filed 12/11/69 - $25.00*
*Deed can be taken at any time.

r - Jericho Water District - Except. Premises under examination is vacant land.

NASSAU COUNTY REAL ESTATE TAXES

Locality	Tax	Due Dates	Period Covered	Grace	Penalties
Hempstead, North Hempstead and Oyster Bay	Town (Incl. Co. Tax)	Jan. 1 and *July 1	Jan. 1 to Dec. 31	40 Days	1% per Month
	School	Oct. 1 and **Apr. 1	July 1 to June 30	40 Days	1% per Month

*Discount allowed if paid before Feb. 10.
**Discount allowed if paid before Nov. 10.

Glen Cove	City	Dec. 1 and June 1	Jan. 1 to Dec. 31	40 Days	½% per Month
	School	Aug. 1 and Feb. 1	July 1 to June 30	30 Days	1% per Month*
	County	Jan. 1 and July 1	Jan. 1 to Dec. 31	40 Days	1% per Month
Long Beach	City	Dec. 1 and June 1	Dec. 1 to Nov. 30	40 Days	1% per Month
	County	Jan. 1 and July 1	Jan. 1 to Dec. 31	40 Days	1% per Month
	School	Oct. 1 and Apr. 1	July 1 to June 30	40 Days	1% per Month
	Water	Dec. 1 and June 1	Dec. 1 to Nov. 30	40 Days	1% per Month
	Sewer	Dec. 1 and June 1	Dec. 1 to Nov. 30	40 Days	1% per Month

*After March 1 add an additional penalty of ½% per month.

School Taxes for the Towns of Hempstead, North Hempstead, Oyster Bay and the City of Long Beach only are returned to the County Treasurer on June 1st.

Town (including State and County) Taxes and County Taxes for the Cities of Glen Cove and Long Beach are returned to the County Treasurer on September 1st.

On and after the above return dates, the said taxes, with additional penalties and charges, are payable to the County Treasurer up to the time of sale of the liens thereof.

INCORPORATED VILLAGE REAL ESTATE TAXES

PENALTY:—5% for first month and ½% for each additional month.

Fiscal Periods of Incorporated Villages are for the years beginning with the due dates as shown below:

DUE DATE—MARCH 1

Freeport, Great Neck Plaza, Hewlett Bay Park, Kensington, Russell Gardens, Saddle Rock, Thomaston, Woodsburgh.

DUE DATE—JUNE 1

Atlantic Beach, Baxter Estates, Bayville, Bellerose, Brookville, Cedarhurst, Center Island, Cove Neck, East Hills, East Rockaway, East Williston, Farmingdale, Floral Park, Flower Hill, Garden City, Great Neck, Great Neck Estates, Hempstead, Hewlett Harbor, Hewlett Neck, Island Park, Kings Point, Lake Success, Lattingtown, Laurel Hollow, Lawrence, Lynbrook, Malverne, Manorhaven, Massapequa Park, Matinecock, Mill Neck, Mineola, Munsey Park, Muttontown, New Hyde Park, North Hills, Old Brookville, Old Westbury, Oyster Bay Cove, Plandome, Plandome Heights, Plandome Manor, Port Washington North, Rockville Centre, Roslyn, Roslyn Estates, Roslyn Harbor, Sands Point, Sea Cliff, South Floral Park, Stewart Manor, Upper Brookville, Valley Stream, Westbury, Williston Park.

NOTE: All Village Taxes are liens for the full year's tax on the due date as shown even though some villages allow payments in halves.

This information is believed to be accurate but is not guaranteed.

Form 45-58

CONDITIONS AND STIPULATIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.

2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.

3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and the Conditions and Stipulations of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.

Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

GREIDINGER, HOFFBERG & OBERFEST
CERTIFIED PUBLIC ACCOUNTANTS

GREIDINGER, HOFFBERG & OBERFEST
CERTIFIED PUBLIC ACCOUNTANTS

1441 BROADWAY, NEW YORK, N.Y. 10018
PENNSYLVANIA 6-7267

October 3, 1970

Joseph C. Hogan, Receiver For
Tilney & Company and Frederick Tilney
New York, N. Y.

Dear Sir:

In accordance with your request, we have prepared the attached financial report of Tilney & Company (a partnership) and Frederick Tilney (an individual) in receivership by order of the United States District Court, Southern District of New York, dated December 13, 1967, as of September 30, 1970, which consists or the following:

Exhibit A - Statement of Assets and Liabilities
Subject To Realization and Liquidation
at September 30, 1970

Schedule 1 - Securities - September 30, 1970

Notes to Financial Statement.

Our examination included a review of the Receiver's books and records, without direct verification of asset account balances. Information and valuations contained in the financial statement were furnished by the Receiver and his counsel without independent verification, as a basis for determining the fair and realizable amounts which might result from the ultimate sale and liquidation of the underlying assets. In the circumstances, we are precluded from expressing an opinion on the financial statements as a whole.

This special purpose report is intended for use solely by the Receiver and other interested parties to the proceedings in formulating appropriate guidelines for the ultimate realization and liquidation of the receivership.

Very truly yours,

Greidinger, Hoffberg & Oberfest

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

EXHIBIT A

Statement of Assets and Liabilities Subject
To Realization and Liquidation (Note 1)
September 30, 1970

Assets		Amount
Unrestricted Assets (other than real estate):		
Cash		$ 3,962
Investments in U.S. Government obligations - principally short-term ($300,000 maturity value)		291,266
Securities (valued at estimated conservative liquidating values - Note 1)		71,644
Due from security broker		13,458
		380,330
Real Estate:		
Residential property and certain adjacent lots (valued at estimated conservative liquidating value)	$152,000	
Receivable - sale of real property - Anchorage, Alaska (valued at selling price less judgment of $5,402)(Note 3)	26,598	
		178,598
Assets Subject To Claims, Liens and Offsets:		
Cash and securities held by Long Island National Bank under collateral loan agreement to loan of Governmental Statistical Corporation (contra) (Note 6)	53,195	
Securities held by National Bank of Alaska under Frederick Tilney loan (contra)	6,700	
Interest receivable on City Commerce Corporation debentures - held by that company as offset against amounts due	1,955	
		61,850
Other Assets Not Presently Valued (Notes 1 and 2):		
Various assets not valued since present amounts are subject to determination or recovery - including sums due from affiliated companies (in excess of $660,000), cash value of certain life insurance less applicable loans (net of equity approximately $12,000), fixed assets and miscellaneous receivables		-
Total Assets Presently Valued		$620,798

Liabilities	Proofs of Claims Filed	Recorded Amount
Preferred Creditors:		
Administration fees and expenses - subject to determination (Note 5)	$ -	$ -
Taxes	5,773	3,219
	5,773	3,219
Secured Creditors:		
Mortgage payable to Equitable Life Assurance Society of the U.S. on residential property - Centre Island, N.Y. - approximate	-	24,000
Note payable and accrued interest to National Bank of Alaska (contra)	-	1,200
	-	25,200
Unsecured Creditors:		
Note payable to Franklin National Bank	3,150	3,150
Due to security brokers	6,623	3,105
Customers accounts (Note 4)	187,959	200,228
Customers accounts - Tilney children	37,030	27,833
Accounts payable - trade	63,382	57,969
Accounts payable - personal expenses	19,705	20,000
Due to family members of Frederick Tilney (subject to possible offsets)	237,300	2,475
Due to Tilney & Company, Inc. (owned and controlled by Frederick Tilney)	46,591	-
	601,740	314,809
Contingent Liabilities:		
Guarantee and collateral pledged under loan by Long Island National Bank to Governmental Statistical Corporation of $62,000 plus interest (contra) (Note 6)	-	53,195
Income taxes - subject to determination on audit	-	-
	601,740	368,004
Total Liabilities	$607,513	396,423
Tentative Excess of Assets Over Liabilities Before Administration Costs		224,375
Total Liabilities and Tentative Excess Assets		$620,798

The accompanying notes to financial statement and letter of transmittal.

GREENHUSER, HOFFBERG & GREENFEST-CERTIFIED PUBLIC ACCOUNTANTS

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

SCHEDULE 1

Schedule of Securities (1)
September 30, 1970

Number of Shares or Face Value	Description	Tilney & Company	Frederick Tilney	Total Valuation (1)
Securities on Hand				
2,197	City Commerce Corporation	$ 549	$ -	$ 549
$55,844	City Commerce Corporation - 7% Debentures, 7/1/71	45,000	-	45,000
25	Life Insurance Securities Corporation	-	-	-
10	Alaska Airlines (4)	60	-	60
947.8	Matanuska Valley Bank	24,643	-	24,643
53	" " "	-	1,378	1,378
1	Pan American Airways	14	-	14
300	Long Island Commercial Review (1)	-	-	-
		70,266	1,378	71,644
Securities and Notes Held By Long Island National Bank (2)				
$95,000	Alaska State Development Corp. - 4½-8/1/73 (payable to Governmental Statistical Corporation)	-	-	-
$59,000	Governmental Statistical Corporation	-	-	-
756	Matanuska Valley Bank	19,656	-	19,656
640	" " " (3)	-	-	- (3)
19,000	Long Island Commercial Review 4% Note Receivable (3)	-	-	- (3)
130	Bank of Suffolk County (3)	-	-	- (3)
31	National Bank of Alaska (3)	-	-	- (3)
		19,656	-	19,656
Securities Held By National Bank of Alaska				
6,700	Central Alaska Utilities	6,700	-	6,700
TOTAL		$96,622	$ 1,378	$98,000

(1) Security valuations were furnished by the Receiver at conservative estimated liquidating values. Values for certain securities were unavailable.
(2) Securities and notes are held under collateral loan agreement to loan of Governmental Statistical Corporation in the principal amount of $62,000, plus accrued interest.
(3) No values assigned by Receiver as securities are subject to claims asserted by Dorothy Tilney.
(4) Not registered in the name of the receivership estate.

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Notes To Statement of Assets and Liabilities
Subject To Realization and Liquidation
September 30, 1970

Note 1 - Valuation of Assets

Asset values were furnished by the Receiver based upon bids, appraised values, and estimates consistent with conservative values which may ultimately be realized upon liquidation. Certain assets including certain securities, investments and receivables from subsidiaries and affiliates, cash value on life insurance, etc., were not presently valued pending subsequent determination on amounts receivable and employed in payment of creditor claims. Certain of the security investments are not readily marketable.

Note 2 - Receivables From Affiliates

The amounts recoverable on investments and receivables from affiliated companies cannot be presently determined by the Receiver and his counsel. A judgment has been filed against Governmental Statistical Corporation in favor of the estate in the approximate amount of $500,000. Real property owned by the affiliated company has been noticed for execution sale by the sheriff in partial satisfaction of this judgment. The appraised value of the property is $115,000.

Note 3 - Receivable - Sale of Real Property - Anchorage, Alaska

The value stated in connection with the investment in real property in Anchorage, Alaska is the sales price less the amount of an outstanding judgment against Tilney & Company in the amount of $5,402, which must be paid in order to convey clear title to the purchaser.

Note 4 - Liabilities To Customers

Liabilities to customers of the Tilney & Company security business are tentatively stated at account balances or market valuations as of December 17, 1967. Creditor proofs of claim filed without values where securities are owing have tentatively been valued at the customer's cost, pursuant to advice of the Receiver and counsel. The foregoing are subject to review and approval by the court.

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Notes To Statement of Assets and Liabilities
Subject to Realization and Liquidation
September 30, 1970

Note 5 - Administration Costs

Applications for interim allowances for fees and expenses by the Receiver, former Receiver, counsel and accountants to the Receivers exceed $200,000 and are subject to review and determination by the court.

Note 6 - Contingent Liability to Long Island National Bank

Tilney & Company and Frederick Tilney are contingently liable under a collateral loan agreement to a loan by Long Island National Bank to Governmental Statistical Corporation in the amount of $62,000 plus accrued interest. In addition to cash and securities of Tilney & Company held by the bank and tentatively valued at $53,195, the bank also holds as collateral a 4% note in the face amount of $95,000 issued by The Alaska State Development Corporation to Governmental Statistical Corporation, maturing August 1, 1973, and various other securities alleged to be owned by Dorothy Tilney, the wife of Frederick Tilney. The contingent liability is stated at the same value as the Tilney & Company collateral held by the bank.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[1]

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SECURITIES & EXCHANGE COMMISSION,

Plaintiff,

vs

67 Civ. 4676

TILNEY & COMPANY and
FREDERICK TILNEY,

Defendants.

----------X

October 15, 1970
2:30 p.m.

Before:

HON. DAVID N. EDELSTEIN,

District Judge

APPEARANCES:

FRANKLIN ORMSTEN, ESQ.,
Attorney, Securities & Exchange Commission

WAGNER, QUILLINAN & TENNANT, ESQS.,
Attorneys for receiver,
ROBERT G. BENISCH, ESQ., Of counsel

JOSEPH C. HOGAN, ESQ., Receiver

I. ALAN HARRIS, Withdrawn Co-Receiver

CAHALANE, WICKERSHAM & TAFT, ESQS.,
Attorneys for Frederick Tilney
and Frederick Tilney & Co.,
TERENCE F. GILLIGANY, ESQ., Of counsel

THE COURT: I think we should proceed by indicating to you that this conference has been called at the behest of Mr. Ormsten, representing the SEC, to discuss the problem that has been raised by the Commission itself.

So I think perhaps it is entirely in order to hear from you, Mr. Ormsten. You may remain seated.

MR. ORMSTEN: Your Honor, as the court is aware, when we last met it was decided to set a date for the hearing on the applications to November 16th, and as a necessary prerequisite to that hearing notices were sent out to all creditors.

After the meeting I became aware of the fact that the Commissions position would be on November 16th to oppose the granting of any interim allowances and to defer any allowances until such time as final allowances would be paid. And I felt, as I indicated to the court by telephone and in chambers, that this might perhaps catch the court unaware and other parties as well, and perhaps even create an awkward situation as far as the notice going out.

So the court was kind enough to enable me to contact all parties and bring them here today to discuss whether or not there would be an actual hearing on the interim fees, as opposed to defering those applications until such time as final applications can be made and considered and heard on

the merits.

I would state that it is intended to be the position and in fact will be the position of the Commission if the meeting is held on November 16th to respectfully urge this court to defer the granting of interim applications and to grant only final allowances, and perhaps to find a way at that time to bring on as quickly as possible applications which would include as nearly as possible final applications.

THE COURT: You are undoubtedly aware that this entire matter of interim fees was raised by the Commission, in your person, sometime ago, and it was literally at the instance, and I think I am using "literally" advisedly, not in any loose sense, it was literally at the instance of the Commission that the entire matter of interim fees became a viable issue.

I do think it is helpful to know the position of the Commission now, since it would appear that the opposition which has been stated for the record does not involve nor would it involve on the return date, November 16th, on the question of fees, an objection or challenge to the merits.

The position at the moment of the Commission, as I understand it, is a policy one. They don't believe that this is the time or they don't believe that the question of interim fees should be considered at all and that the fees

should be deferred until an application for the final fees can be made. Isn't that the position of the Commission?

MR. ORMSTEN: That is the position.

THE COURT: So I think it is helpful that we know the position now, because, just thinking with me for a moment, I can see the great waste of time that would have occurred had we waited until November 16th, only to hear from the Commission at that time, after notice to creditors had gone out and perhaps creditors assuming the expense and the burden of travelling, coming here, only to learn at that time that the Commission's objection was not to the fees themselves, whether they are high or they are low, or what have you, but rather to the policy of considering interim fees, and that would have been an even greater waste of time than we have to endure at this moment.

Perhaps you might wish to indicate for the record why it was that the SEC in the first instance was interested in having the interim fees stated and now at this late hour, when we had decided upon the form of notice and had a conference concerning it -- as a matter of fact, I think that you, Mr. Gilheany, had a conversation where you were supposed to indicate your recommendations about one or two weeks in advance --

MR. GILHEANY: One week in advance.

THE COURT: (Continuing) Perhaps you would like to indicate for the record, so some clarity may be visable, why this turnabout, this complete change.

MR. ORMSTEN: Not only has the court indicated that we had taken a contrary position, or if not a contrary position, then we had asked that applications be put in, but Mr. Benisch, very able counsel for the receiver, had also called that to my attention. And I certainly don't deny, in fact, I don't know what the literal language is, but we did seek at that time to get applications in the hope, your Honor, of bringing the matter more effectively to a head.

I didn't realize at the time that we would have the hiatus between the date as of which the application spoke and the time at which we would hold a hearing, and, finally, the prospect, after the hearing, of some more time. So I would be very candid to state to the court that it was a misjudgment, and the misjudgment was made by me. And I would have to rest with this inconsistency. But I think that were I to try to expatiate on it further I would simply be muddying the record. It was a misjudgment, resting on the hope that we could possibly bring things together, to a head, more quickly.

THE COURT: I think this is a candid enough statement, and I would merely like to add a footnote, that even the

which is determining their policy and that is that interim allowances should not be made until the final wind-up of the estate.

THE COURT: I don't want you to fudge. You are talking about interim allowances being allowed, and I am not at all sure whether you make a distinction between being allowed and made. You are talking about interim allowances being made. Now, the approval of interim allowances does not mean that they are going to be made, because it is certainly my intention at this time that should these interim allowances be allowed they would not be made but they would be deferred. So if basic to your opposition to the SEC's speaking application is the thought that there will be any payout, you are wrong. There will not be any payout.

MR. BENISCH: I certainly think that sheds completely new light on the matter, your Honor.

THE COURT: They would be deferred. I am sorry. I didn't mean to interrupt you, but I thought we ought to have some clarification on the record before getting to deeply immersed in it.

MR. HOGAN: Your Honor, I feel that the receiver, counsel, the accountants were working --

THE COURT: Pardon me, sir. Did you finish?

MR. BENISCH: No. If you don't mind, Mr. Hogan.

to creditors. When I say creditors, I mean particularly the people that had securities with Tilney & Company.

I haven't heard from you. I think you have some interest in this.

MR. GILHEANY: Yes, your Honor.

THE COURT: I think I have stated all the ramifications that I can see at the moment.

Now, what is your feeling ?

MR. GILHEANY: Your Honor, the Defendants support the application of the Commission. I don't think I have to burden the record. Your Honor obviously appreciates the reasoning behind the commission and the application as stated by Mr. Ormsten, and I think I need only say that the defendants support the application.

THE COURT: May I call your attention to one fact, and I don't think this is certainly crucial, but I think the record should state it clearly, that you support the Commission's application. This is at odds with the policy of the statements and the thoughts of your client expressed on a great number of occasions. He was very, very insistent when he had an opportunity, to state that interim allowances ought to be a matter for discussion and consideration.

MR. GILHEANY: Your Honor, at the time when we all thought that the application for interim allowances

Mr. Hogan has just stated to the court about Mr. Whalen. I had no knowledge of that at all.

In all candor to your Honor, I must say that I have had some knowledge of some of the other items that Mr. Hogan just recited. We have advised Mr. Tilney not to do a great many things and he has simply refused to take our advise. I apologize to the court for our not being able to control our client, but we have advised him and urged him to take those steps which would be consistent with the early liquidation and orderly liquidation of this estate, and at many turns he has simply refused to take our advise.

MR. HOGAN: I have all respect for Mr. Gilheany, and I did not mean to include him in the statement at all.

MR. HARRIS: This is the $95,000 note that I had received the 80 cent offer on in September 1968. I had instructed the pledgee bank holding that note for Governmental to accept the 80 cent offer of Long Island National Bank, and Mr. Tilney, using the umbrella of Governmental Statistical, which had been the original owner of the note, threatened Long Island not to accept the offer. They did not accept it.

The the 80 cent offer was withdrawn. And Mr. Hogan worked so assiduously over the last eight months trying to resurrect the 80 cent offer, and apparently he did, and then this is what has happened again.

Mr. Tilney says there is no need to liquidate any further, and it has been suggested to him that if he is correct then he should have his counsel make a formal application to terminate the receivership. That would be the proper mannerin which to bring it on to a head.

THE COURT: Perhaps we ought to consider --

MR. HARRIS: I have stated, your Honor, in my petition report, which was of considerable length, repeatedly, and I am willing to stand on it, over and over again, that there is enough in this estate, still enough, even with the difficulties Mr. Hogan has mentioned, that not only would all administration expenses possibly be paid but all creditors would be paid, barring the children's claim, which I understood your Honor had orally decided was not a claim, and I am not sure there is a final order expunging the children's claim - the Tilney interest claim.

Everyone here, and I am sure your Honor, recognizes Sundown has not been liquidated, even if not at the price of two years ago, and Hicksville has not been liquidated. And even these difficult bank stocks that Mr. Hogan referred to, there is more than enough to pay off the public, which is the concern of the SEC - I was told that by the SEC - and the administration expenses, not only interim but ultimate, final, your Honor.

THE COURT: We have proceeded here to liquidate in an orderly fashion, without dumping assets. I thought that any other step would be cruel. And I think what has been accomplished thus far has certainly been the result of a great deal of diligence and a great deal of effort, in very trying markets, for any and all assets that have to be liquidated.

But perhaps we might consider now the step of proceeding with liquidation, whether by public auction or otherwise. I think I indicated that thought on at least two or three other occasions.

When we started out here it was my hope, and I think we accomplished some of our aspirations, to pay the creditors a hundred per cent, to pay administration expenses, to save something if possible for the Tilneys, including their home. That is what I had hoped.

But perhaps we have reached that point now where we should go full force ahead with liquidation, and again I repeat, either by public auction or otherwise, subject, of course, to the approval of the court.

What do you have to say about that, Mr. Ormsten?

MR. ORMSTEN: I don't think I am saying anything improper, your Honor, but when I came over to court to make oral application I think I expressed at that time an appreci-

tion of both the court's great care in disposing of the assets and also of the fact that I was cognizant, and the court also indicated, that Mr. Hogan had many difficulties in connection with the liquidation of assets.

So I think perhaps he misinterprets me or finds a pregnant implication where there is, if you please, no pregnancy.

I repeat, I recognize and I believe that the court also had recognized Mr. Hogan's difficulties. I had said, and perhaps a misunderstanding arose from that, to Mr. Benisch in other communications in connection with this matter that it was not the Commission's position to oppose the judgment of counsel for the receiver in this matter of liquidation. So perhaps Mr. Hogan had gotten a misimpression that we thought it was a facile and easy thing.

I merely wish to assure Mr. Benisch that, in large measure, we were relying in the liquidation of assets on the judgment of court appointed officers. But, nonetheless, I might have given your Honor a misimpression.

I also recognize, your Honor, that this court, and I think all parties, and I think it would be accurate to state that Mr. Hogan is among them, have a genuine reluctance and have had a genuine reluctance to take a final step, because it was discussed, of rolling Mr. Tilney out, because

it was felt that a home carries with it connotations of sentiment and other factors as well. But if it becomes necessary, and if there is a course of obstruction, thenit may become necesaary. I am sure the court appreciates that I would be somewhat tentative in what I state here because, as the court has been frank enough to accept, has been sympathetic enough to accept, I feel that I at ony point had overextended myself, made a misjudgment, so I wouldn't make a definite commitment, but I feel that the court states what may be the correct necessity here.

So I would naturally ask for time to confirm that, but it may be that that is nocessary to be done, and along with the court I think it is accurate to say other parties also have --

THE COURT: What I am about to say is selfserving, and I don't hesitate to say it, nevertheless, as I think it bears scrutiny, examination and inspection: When this matter came before me in the ex parte term in my court on an injunction which had been consented to by Tilney, I had no problem, at that hour beyond signing the order appointing the receiver and thereby terminating my connection with the entire matter. What would have taken place as the most logical and legal step would have been a wholesale, expeditious, quick liquidation of all of the assets, at a time when the markets were not

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very firm, and I foresaw at that time and spread it on the record, I think amply, to the effect that it gave me some concern to think of not only the creditors finding themselves in the position where they would receive little or nothing, but I also indicated another concern: of members of the public owning shares of stock suddenly awakening one morning and looking at the pink sheet which reflects the bid and asked of over the counter stocks, and stocks that trade in very inactive markets, suddenly finding, to use an expression which is common in Wall Street and colloquial, that their stock had fallen out of bed, without knowing why they had suffered substantial losses, people that were not in this receivership, people that were not before this court, but literally would be innocent victims.

I had hoped that by assuming this responsibility, which I did, which has invaded my time to an inordinate degree, three years, many, many hearings and many, many problems, that it would be justified that the time that I and others would spend would be more than warrented and merited because everybody would come out, and again I am using the vernacular, with a whole skin.

I don't think we are too far off target. Again, this is self-serving and I don't hesitate to state it, I think we have done pretty well in very difficult times. Our

receiver and counsel and accountants have been very sophisticated. I think they have handled the situation with wisdom, and I want the record to reflect that. I think they have handled the situation with wisdom, I think they have been prudent, and they have suffered a great many annoyances which are entirely extraneous to this matter.

Now, I think I ought to say to you, Mr. Gilheany, that you have comported yourself in the tradition of being an officer of this court and a diligent and able counsel trying to represent your client to the best possible degree.

I think you ought to indicate, and this has been mentioned again and again, to him that if he continues in this fashion of obstructing the processes of this court, in interfering with the orderly liquidation without consent of counsel, without any formal applications, but in this back-door way, it might be very wise for the SEC to give this matter careful consideration, because it effects their representation of the public at large and these creditors, to proceed by way of contempt.

I have mentioned that before. If Mr. Hogan's statement on the record is to be taken as accurate, and I see no reason why it should not be, that implied threats, and that is the only way I can characterize what Mr. Tilney purportedly has stated to Mr. Hogan, that implied threats can assume very

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serious dimensions. I don't have to explore that any further with you.

MR. GILHEANY: No, your Honor, you don't, and I will make it fully known to him.

THE COURT: Mr. Hogan has put this on the record. Now, if Mr. Tilney has any reason to communicate with the newspapers or any other agency, private or public, he certainly may do so, but I think he ought to be very careful about attempting to intimidate, explicitly or implicitly, or in any way attempting to intimidate the receiver or anybody else participating in an attempt to bring this estate to a satisfactory conclusion.

MR. GILHEANY: I will make your Honor's views fully known to Mr. Tilney with all the force at my command.

THE COURT: I think that all of us here who have labored in the vineyard of the law are not concerned about these implied threats in order to induce decisions that are extra-legal or perhaps illegal. We have been very patient with Mr. Tilney, but the court is not without the ability to apply sanctions, and serious ones.

I would further instruct your client through you, and I am sure that this is a suggestion which you will entertain, being Mr. Tilney's counsel, under no circumstances to communicate with either the receiver or his counsel in any

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fashion except through his appointed counsel. If he has anything to say it should be said through you. And if you have any applications, I don't think I have to labor the record but I am by saying that you certainly are free to make any application I assure you it will be entertained and the most careful consideration will be given to it, and I think I can afford to say that because I think the record bears out that I have been reasonably patient and considerate.

MR. GILHEANY: Yes, indeed, your Honor.

THE COURT: That leaves just the matter of the oral application by the SEC.

MR. HARRIS: May I just say this, your Honor. This is an example of what I meant I would suggest that the defendant, Mr. Tilney, and Tilney & Company, have as much and more of a vital interest in responding to these applications and all the statements made in the applications and the value of the services, of whether there was impedence or not, than even the SEC does. I think the focus on the SEC's policy consideration makes us overlook the more important viewpoint of ultimately moving this estate along and requiring Mr. Tilney through his counsel to respond to these applications.

Statements were made in these applications concerning steps that were taken or were not taken or were impeded

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or interfered with and so forth. As an example, your Honor, we had always assumed, and I assure your Honor did or you wouldn't have handled this matter in this manner, that the object of the receivership would have cooperated with the receivers or had kept his hands off, so to speak. I can't conceive of a brokerage firm that has not acted completely neutral or cooperated with these receivers who are being appointed almost on a daily basis. But in this case we started in that fashion. But now Mr. Benisch, as a judgment creditor, is foreclosing executing through the sheriff on a piece of property owned by GSC. And right adjoining that piece of property on South Broadway, Hicksville, your Honor, right adjoining it, there is an additional vacant parcel which is controlled by Mr. Tilney under the name of Tilney Construction Corp., or in his name as nominee for that company, which in effect is an asset of the receivership.

Here are two adjoining, contiguous vacant parcels, your Honor, and I need not say that you are not going to get the proper value by selling 60 per cent of your aggregate assemblage under the sheriff's hammer. And I am sure you can't get Mr. Tilney to cooperate in a reasonable, sensible manner of putting the thing up in the proper fashion and getting the proper price for the asset. This is what is going on.

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By allowing the SEC's policy consideration, Mr. Tilney will sit back and gloat that the receiver, Mr. Hogan and Mr. Benisch, are held up even further. I am speechless, your Honor.

THE COURT: Turning to you again, Mr. Ormsten, the same opportunity that I have offered the receiver and counsel here for any indication of a different position on Monday, I also present that same opportunity to you. You have heard all the considerations here. I don't think much can be added. Perhaps you may wish to speak to the Commission once again.

MR. ORMSTEN: Right. I accept the court's offer to reconsider, and I will take it up, and if there is any other application or change of position, I will communicate that to the court.

THE COURT: Is there any further business?

(No response.)

THE COURT: All right.

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GREIDINGER, HOFFBERG & OBERFEST
CERTIFIED PUBLIC ACCOUNTANTS

888 SEVENTH AVENUE, NEW YORK, N.Y. 10019
(212) 489-1030

January 8, 1971

Joseph C. Hogan, Receiver For
Tilney & Company and Frederick Tilney
New York, N. Y.

Dear Sir:

In accordance with your request, we have prepared the attached financial report of Tilney & Company (a partnership) and Frederick Tilney (an individual) in receivership by order of the United States District Court, Southern District of New York, dated December 18, 1967, as of October 31, 1970, which consists of the following:

Exhibit A - Statement of Assets and Liabilities Subject To Realization and Liquidation at October 31, 1970.

B - Statement of Increase In Assets Over Liabilities For The Year November 1, 1969 To October 31, 1970.

Supporting Schedules:

A-1 -Investments (principally short-term) - October 31, 1970.

A-2 -Securities - October 31, 1970.

A-3 -Cash Value of Life Insurance - October 31, 1970.

B-1 -Operating and Receivership Expenses - November 1, 1969 To October 31, 1970.

B-2 -Gains and Losses on Sales of Securities November 1, 1969 To October 31, 1970.

B-3 - Dividends and Interest Received - November 1, 1969 To October 31, 1970.

Notes to Financial Statements.

Our examination included a review of the Receiver's books and records, without direct verification of asset account balances. Information and valuations contained in the financial statement were furnished or estimated by the Receiver, as a basis for determining the fair and realizable amounts which might result from the ultimate sale and liquidation of the underlying assets. The accompanying statements, at the request of the Receiver and his counsel, give effect currently to certain pro-forma adjustments relating to the anticipated future expunging and elimination of certain "Tilney claims" as explained in note 8. In the circumstances, we are precluded from expressing an opinion on the financial statements as a whole.

This special purpose report is intended for use solely by the Receiver and other interested parties to the proceedings in formulating appropriate guidelines for the ultimate realization and liquidation of the receivership.

Very truly yours,

JOSEPH C. HOGAN, RECEIVER

Statement of Assets and Liabilities Subject
To Realization and Liquidation (Note 1)
October 31, 1970

Assets	Total	Tilney & Company	Frederick Tilney
Unrestricted Assets (other than real estate):			
Cash	$ 6,197	$ 6,179	$ -
Certificate of deposit (excludes accrued interest)(Schedule A-1)	10,000	10,000	-
Investments in U.S. Government bonds - principally short-term ($300,000 maturity value)(Schedule A-1)	290,716	290,716	-
Securities (valued at estimated conservative liquidating values - note 1) (Schedule A-2)	74,954	60,004	14,950
Due from security broker	1,211	1,211	-
	383,060	368,110	14,950
Transfers and advances during Receivership	-	(11,490)	11,490
	383,060	356,620	26,440
Real Estate:			
Residential property, Centre Island, N.Y., and certain adjacent lots (valued at estimated liquidating value)	152,000	-	152,000
Receivable - sale of real property - Anchorage, Alaska (valued at selling price less judgment of $5,402)(Note 3)	26,598	26,598	-
Unimproved property, East Norwich, N.Y. (less mortgage held by Marine Midland Tinker National Bank)..(Note 7)	-	-	-
	178,598	26,598	152,000
Assets Subject To Claims, Liens and Offsets:			
Cash and securities held by Long Island National Bank under collateral loan agreement to loan of Governmental Statistical Corporation (contra) (Note 6)	53,195	53,195	-
Securities held by National Bank of Alaska under Frederick Tilney loan (contra)	6,700	-	6,700
Interest receivable on City Commerce Corporation debentures - held by that company as offset against amounts due	1,955	1,955	-
	61,850	55,150	6,700
Cash value of life insurance, less loan principal and interest (Schedule A-3)	23,247	8,467	14,780
Other Assets Not Presently Valued (Notes 1 and 2): Various assets not valued since present amounts are subject to determination or recovery - including sums due from affiliated companies (in excess of $680,000) fixed assets and miscellaneous receivables	-	-	-
Total Assets Presently Valued	$646,755	$443,835	$202,920

See accompanying notes to financial statements and letter of transmittal.

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Attorney for Guardian ad Litem

JOSEPH C. HOGAN, RECEIVER

Statement of Assets and Liabilities Subject
To Realization and Liquidation (Note 1)
October 31, 1970

Liabilities	Proofs of Claims Filed (Notes 4 & 8)	Total	Tilney & Company	Frederick Tilney
Preferred Creditors:				
Administration fees and expenses - subject to determination (Note 5)	$ -	$ -	$ -	$ -
Taxes	5,669	3,219	3,219	-
	5,669	3,219	3,219	-
Secured Creditors:				
Mortgage payable to Equitable Life Assurance Society of the U.S. on residential property - Centre Island, N.Y.	-	23,812	-	23,812
Note payable and accrued interest to National Bank of Alaska (contra)	-	1,200	-	1,200
	-	25,012	-	25,012
Unsecured Creditors:				
Note payable to Franklin National Bank	3,150	3,150	3,150	-
Due to security brokers	6,626	3,105	3,105	-
Customers accounts (Notes 4 and 8)	187,279	199,542	199,542	-
Customers accounts - Tilney children (Note 8)	15,465	10,580	10,580	-
Accounts payable - trade	63,371	57,945	57,945	-
Accounts payable - personal expenses	19,705	20,080	-	20,080
Due to family members of Frederick Tilney (Note 8)	-	-	-	-
Due to Tilney & Company, Inc. (Owned and controlled by Frederick Tilney) (Note 8)	-	-	-	-
	295,596	294,402	274,322	20,080
Contingent Liabilities:				
Guarantee and collateral pledged under loan by Long Island National Bank to Governmental Statistical Corporation of $62,000 plus interest (contra) (Note 6)	-	53,195	53,195	-
Income taxes - subject to determination on audit	-	-	-	-
Obligation under mortgage liability to Marine Midland Tinker National Bank (East Norwich property) (Note 7)	-	-	-	-
	295,596	347,597	327,517	20,080
Total Liabilities	$301,265	375,828	330,736	45,092
Tentative Excess of Assets Over Liabilities Before Administration Costs		270,927	113,099	157,828
Total Liabilities and Tentative Excess Assets		$646,755	$443,835	$202,920

See accompanying notes to financial statements and letter of transmittal.

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JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Statement of Increase In Assets Over Liabilities
(Increase In Net Receivership Equity)
For The Year November 1, 1969 To October 31,1970

EXHIBIT B
Page 1 of 2

	CASH	OTHER ASSETS	LIABILITIES			
	Cash Receipts and Disbursements	Increase (Decrease)	(Increase) Decrease	Total	Tilney & Company	Fre Ti
Cash Receipts:						
Proceeds from sale of securities (Schedule B-2)....	$ 89,756	$ -	$ -	$ 89,756	$ 76,298	$ 1
Interest and dividend income (Schedule B-3).....	22,223	-	-	22,223	21,268	
U.S. Treasury obligations redeemed (excludes interest earned).....	524,114	-	-	524,114	524,114	
Consideration received from Marine Midland Tinker National Bank for granting mortgage on East Norwich property.....	5,500	-	-	5,500	-	
Condemnation award proceeds - Governmental Statistical Corporation.....	939	-	-	939	939	
Insurance proceeds.....	24	-	-	24	24	
	642,556	-	-	642,556	622,643	1
Cash Disbursements:						
Purchase - U.S. Treasury obligations.....	610,920	-	-	610,920	610,920	
Purchase - certificate of deposit.....	10,000	-	-	10,000	10,000	
Operating and receivership expenses, less reimbursement (Schedule B-1).....	19,885	-	-	19,885	5,950	1
	640,805	-	-	640,805	626,870	1
Non Cash Transactions and Adjustments:						
Record cash value of life insurance, less applicable loans (Schedule A-3).....	-	23,247	-	23,247	8,467	1
Gain on sale of Anchorage, Alaska, property (less $770 write-up in F.M.V. 10/31/69).....	-	11,598	-	11,598	11,598	
Increase in recorded value of securities held by Long Island National Bank.....	-	8,316	-	8,316	8,316	
Increase in recorded value of securities held by National Bank of Alaska.....	-	5,500	-	5,500	-	
Adjustment of interest receivable - City Commerce Corporation debentures.....	-	5	-	5	5	
Book value at October 31, 1969 of securities sold during year (Schedule B-2).....	-	(27,613)	-	(27,613)	(27,613)	
Unrealized increment in recorded value of securities on hand at October 31, 1970.....	-	3,807	-	3,807	3,652	
Accounts receivable from broker on sale of securities (Schedule B-2).....	-	1,211	-	1,211	1,211	
Totals carried forward.....	-	26,071	-	26,071	5,636	

See accompanying notes to financial statements and letter of transmittal.

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

EXHIBIT B
Page 2 of 2

Statement of Increase In Assets Over Liabilities
(Increase In Net Receivership Equity)
For The Year November 1, 1969 To October 31,1970

	CASH	OTHER ASSETS	LIABILITIES			
	Cash Receipts and Disbursements	Increase (Decrease)	(Increase) Decrease	Total	Tilney & Company	Fre Ti
Totals brought forward.....	$ -	$ 26,071	$ -	$ 26,071	$ 5,636	$ 2
Non Cash Transactions and Adjustments (cont'd.)						
Amortization of mortgage principal.....	-	-	2,688	2,688	-	
Note payable to Tinker National Bank eliminated by mortgaging East Norwich property.....	-	-	98,000	98,000	-	9
Record contingent liability to Long Island National Bank to extent of value of collateral held.....	-	-	(53,195)	(53,195)	(53,195)	
Provision for commercial rent and occupancy taxes...	-	-	(800)	(800)	(800)	
Retroactive adjustment for claims to be expunged (Note 8) -						
Camilla Tilney - customer account.....	-	-	680	680	680	
Tilney children - customer accounts.....	-	-	17,252	17,252	17,252	
Kathleen Gail Tilney.....	-	-	435	435	435	
Dorothy Tilney.....	-	-	2,040	2,040	2,040	
Net increase in U.S. Treasury obligations acquired during the year - at cost.....	-	86,806	-	86,806	86,806	
Purchase - certificate of deposit.....	-	10,000	-	10,000	10,000	
	-	122,877	67,100	189,977	68,857	121
Increase In Net Assets During The Current Year.....	1,751	122,877	67,100	191,728	64,627	127
Excess of Assets Over Liabilities Valued At October 31, 1969 (Before Administration Costs).....	4,428	517,699	(442,928)	79,199	48,472	30
Excess of Assets Over Liabilities Valued at October 31, 1970 (Before Administration Costs).....	$ 6,179	$640,576	$(375,828)	$270,927	$113,099	$157

See accompanying notes to financial statements and letter of transmittal.

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Schedule 1

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Summary of Investments
October 31, 1970

	Maturity Date	Interest Rate	Cost
Certificate of Deposit			
Manufacturers Hanover Trust Company, #27554	1/14/71	5%	$ 10,000
U.S. Treasury Bonds			
Maturity Value			
$270,000	8/15/71	4%	262,861
20,000	5/15/74	4-1/4%	18,557
10,000	5/5/74	4-1/4%	9,298
$300,000			$290,716

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JOSEPH C. HOGAN, RECEIVER
Schedule of Securities (1)
October 31, 1970

EXHIBIT A
Schedule 2

Number of Shares or Face Value	Description	Tilney & Company	Frederick Tilney	Total Valuation (1)	Cost or Tax Basis (5)
Securities on Hand					
90	Alaska Bancshares, Inc. (formerly City Commerce Corporation)(6)	$ 51	$ -	$ 51	$ 24
$35,844	Alaska Bancshares, Inc. (formerly City Commerce Corporation) - 7% debentures, 7/1/71	41,883	-	41,883	50,260
25	Life Insurance Securities Corporation	-	-	-	-
10	Alaska Airlines (4)	50	-	50	113
947.8	Matanuska Valley Bank	18,008	-	18,008	29,382
50	" " "	-	950	950	1,550
1	Pan American Airways	12	-	12	24
380	Long Island Commercial Review (1)	-	14,000	14,000	19,000
		$60,004	$14,950	$74,954	$100,353
Securities and Notes Held By Long Island National Bank (2)					
$95,000	Alaska State Development Corp. - 4%-8/1/73 (payable to Governmental Statistical Corporation)				
$59,000	Governmental Statistical Corporation				
756	Matanuska Valley Bank				
640	" " " (3)				
19,000	Long Island Commercial Review 4% Note Receivable (3)				
130	Bank of Suffolk County (3)				
31	National Bank of Alaska (3)				
Securities Held By National Bank of Alaska					
6,709	Central Alaska Utilities				

(1) Security valuations were furnished by the Receiver at conservative estimated liquidating values. Values for certain securities were unavailable.
(2) Securities and notes are held under collateral loan agreement to loan of Governmental Statistical Corporation in the principal amount of $62,000, plus accrued interest.
(3) No values assigned by Receiver as securities are subject to claims asserted by Dorothy Tilney.
(4) Not registered in the name of the receivership estate.
(5) Cost or tax basis submitted by Frederick Tilney.
(6) Represents claim on stock sold, written amount on certificate 100 shares, numerical amount on certificates 10 shares.

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EXHIBIT A
SCHEDULE 3

JOSEPH C. HOGAN, RECEIVER

Schedule of Life Insurance Policy Values
October 31, 1970

Insurance Company	Policy No.	Life Covered	Owner of Policy	Beneficiary	Cash Surrender Value	Accumulated Dividends	Loans and Interest Due Outstanding	Net Cash Value Tilney & Company	Net Cash Value Frederick Tilney	Total
The Equitable Life Assurance Society of the United States	62 314 638	Frederick Tilney	Receivers (1)	Dorothy Tilney	$11,080	$ 1,688	$ -	$ -	$12,768	$12,768
Aetna Life and Casualty Co.	P 814 654	Frederick Tilney	Frederick Tilney	Charles M. Fanoni (2)	1,626	1,218	832	-	2,012	2,012
New England Mutual Life Insurance Company	2 214 918	Mrs. D. McCabe Tilney	Tilney & Company	Tilney & Company	13,276	4,626	14,110	3,792	-	3,792
Massachusetts Mutual Life Insurance Company	2 465 410	Frederick Tilney	Tilney & Company	Tilney & Company	16,682	5,391	17,398	4,675	-	4,675
					$42,664	$12,923	$32,340	$ 8,467	$14,780	$23,247

(1) Policy was assigned to I. Alan Harris and Joseph C. Hogan, Receivers, by Dorothy Tilney.
(2) Subject to change upon instructions to insurance company.

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EXHIBIT B
Schedule

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Schedule of Operating and Receivership Expenses
For The Year November 1, 1969 To October 31, 1970

	Total	Tilney & Company	Frederick Tilney
Real estate taxes (less reimbursement of $4,828 from Marine Midland Tinker National Bank)	$ 6,266	$ 238	$ 6,028
Life insurance premiums	7,140	4,658	2,482
Homeowners insurance	770	-	770
Mortgage amortization	2,187	-	2,187
Interest on mortgage	1,581	-	1,581
Surety bond	400	400	-
Fuel oil	887	-	887
Legal fees	106	106	-
Appraisal fees	500	500	-
Insurance - office equipment	39	39	
New York State transfer tax	9	9	-
	$19,885	$ 5,950	$13,935

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JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

EXHIBIT B
Schedule 2

Gains and Losses on Sales of Securities
For The Year November 1, 1969 To October 31,1970

Number of Shares	Description	Proceeds From Sale			Original Cost or Tax Basis (1)	Valuation at 10/31/69
		Total	Tilney & Company	Frederick Tilney		
1,500	Matanuska Valley Bank	$43,500	$43,500	$ -	$46,500	$21,150
220	Alaska State Bank	11,969	11,969	-	10,560	-
5	Alaska Airlines	27	27	-	56	5
42,107	City Commerce Corp.	22,013(2)	22,013	-	11,369	6,458
379	Marine Midland Tinker National Bank	13,458	-	13,458	-	-
		$90,967(2)	$77,509	$13,458	$68,485	$27,613

(1) Cost or tax basis submitted by Frederick Tilney.

(2) 2,107 shares sold October 29, 1970, proceeds of $1,211 received in November, 1970.

EXHIBIT B
Schedule 3

JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Dividends and Interest Received
For The Year November 1, 1969 To October 31, 1970

	Total	Tilney & Company	Frederick Tilney
Interest:			
U.S, Government obligations.....	$16,908	$16,908	$ -
City Commerce Corp. - 7% debentures	3,909	3,909	-
Dividends:			
Marine Midland Tinker National Bank	955	-	955
Matanuska Valley Bank.....	319(1)	319(1)	-
Alaska State Bank.....	132	132	-
	$22,223	$21,268	$ 955

(1) May be subject to allocation to Frederick Tilney.

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JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Notes To Financial Statements
October 31, 1970

Note 1 - Valuation of Assets

Asset values were furnished by the Receiver based upon bids, appraised values, and estimates consistent with conservative values, which may ultimately be realized upon liquidation. Certain assets including certain securities, investments and receivables from subsidiaries and affiliates, etc., were not presently valued pending subsequent determination of amounts recoverable and employed in payment of creditor claims. Certain of the security investments are not readily marketable.

Note 2 - Receivables From Affiliates

The amounts recoverable on investments and receivables from affiliated companies cannot be presently determined by the Receiver and his counsel. A judgment has been filed against Governmental Statistical Corporation in favor of the estate in the approximate amount of $500,000. Real property owned by the affiliated company has been noticed for execution sale by the sheriff in partial satisfaction of this judgment. The appraised value of the property is $115,000.

Note 3 - Receivable -Sale of Real Property - Anchorage, Alaska

The value stated in connection with the investment in real property in Anchorage, Alaska is the sales price less the amount of an outstanding judgment against Tilney & Company in the amount of $5,402, which must be paid in order to convey clear title to the purchaser.

Note 4 - Liabilities To Customers

Liabilities to customers of the Tilney & Company security business are tentatively stated at account balances or market valuations as of December 17, 1967. Creditor proofs of claim

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JOSEPH C. HOGAN, RECEIVER FOR
TILNEY & COMPANY (A PARTNERSHIP) AND
FREDERICK TILNEY (AN INDIVIDUAL)

Notes To Financial Statements
October 31, 1970

Note 4 - Liabilities to Customers (cont'd.)

filed without values where securities are owing have tentatively been valued at the customer's cost, pursuant to advice of the Receiver and counsel. The foregoing are subject to review and approval by the court.

Note 5 - Administration Costs

Application for interim allowances for fees and expenses by the Receiver, former receiver, counsel and accountants to the Receivers exceed $200,000 and are subject to review and determination by the court.

Note 6 - Contingent Liability To Long Island National Bank

Tilney & Company and Frederick Tilney are contingently liable under a collateral loan agreement to a loan by Long Island National Bank to Governmental Statistical Corporation in the amount of $62,000, plus accrued interest. In addition to cash and securities of Tilney & Company held by the bank and tentatively valued at $53,195, the bank also holds as collateral a 4% note in the face amount of $95,000 issued by The Alaska State Development Corporation to Governmental Statistical Corporation, maturing August 1, 1973, and various other securities alleged to be owned by Dorothy Tilney, the wife of Frederick Tilney. The contingent liability is stated at the same value as the Tilney & Company collateral held by the bank.

Note 7 - Mortgage - Marine Midland Tinker National Bank

The Receiver and Frederick Tilney by court order, dated July 8, 1970, executed a mortgage on certain undeveloped land in Norwich and East Norwich, N. Y. to Marine Midland Tinker National Bank in the amount of $115,828 with 7½% interest, in full payment and satisfaction of the bank's claim for loan principal of $98,000 plus accrued interest, which resulted from a 1966 loan to Frederick Tilney and Dorothy Tilney. The land was appraised at $103,500 and

Note 7 - Mortgage - Marine Midland Tinker National Bank (cont'd.)

the bank paid to the receiver $5,500 as further consideration for the mortgage. In the event that the assets of the receivership are insufficient to pay the full amount of all just claims against it (including administration expenses) the bank will pay to the Receiver an amount, which when subtracted from the sum of $103,500, will make the prorated value of the distribution received by the bank equal to the prorated share of each other creditor. The receivership is subject to terms and conditions as set forth in the mortgage agreement.

Note 8 - Claims Expunged

Pursuant to instructions of the Receiver and his counsel, the following liability claims anticipated to be expunged by order of the court, are to be eliminated in the accompanying financial statements as having been expunged retroactively as of October 31, 1970:

Claim Number	Claimant	Per Claim	Per Books
128	Arnold Bauman, Guardian for Frederick Tilney, Jr.....	$ 5,256.66*	$ 1,680.00*
129	Arnold Bauman, for Dorothy Tilney	7,037.66*	1,680.00*
130	Arnold Bauman, for Kathleen Gail Tilney.....	21,921.66*	13,892.00*
132	Frederick Tilney, Executor Estate of Camilla H. Tilney....	680.00	680.00
133	Dorothy Tilney, Guardian of Kathleen G. Tilney.....	435.00	435.00
134	Dorothy Tilney.....	2,040,00	2,040.00
135	Dorothy Tilney.....	1,550.00	-
136	Tilney & Company, Inc.....	19,053.99	-
137	Tilney & Company, Inc.....	11,252.00	-
138	Tilney & Company, Inc.....	16,284.72	-
139	Dorothy M. Tilney.....	2,500.00	-
140	Dorothy M. Tilney.....	55,000.00	-
141	Dorothy M. Tilney.....	126,050.00	-
142	Dorothy M. Tilney.....	2,423.94	-
143	Dorothy M. Tilney, Guardian for Kathleen G. Tilney, Dorothy C, Tilney and Frederick Tilney,Jr.	34,650.00	-
		$306,135.63	$ 20,407.00

*The above adjustments applicable to claims 128, 129 and 130 give effect to only partial expungment of the claimed amounts.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES and EXCHANGE COMMISSION,

Plaintiff,

vs. 67 Civ. 4676

TILNEY & COMPANY and FREDERICK TILNEY,

Defendants.

New York, New York.
December 23, 1970.
2:05 P.M.

Before:

HONORABLE DAVID N. EDELSTEIN, District Judge.

APPEARANCES:

JOSEPH C. HOGAN, ESQ., Receiver.

I. ALAN HARRIS, ESQ., Withdrawn Co-receiver.

WAGNER, QUILLIAN & TENNANT, ESQS.,
Attorneys for Receiver.
By: ROBERT G. BENISCH, ESQ., and
ROBERT F. MULLIGAN, ESQ., of Counsel.

CADWALADER, WICKERSHAM & TAFT, ESQS.,
Attorneys for Defendants.
By: TERENCE F. GILHEANY, ESQ., and
MICHAEL A. MC MANUS, JR., ESQ., of Counsel.

SAZE, BACON & BOLAN, ESQS.,
Attorneys for Mrs. Tilney.
By: THOMAS A. BOLAN, ESQ., of Counsel.

APPEARANCES (continued):

ARNOLD BAUMAN, ESQ.,
Attorney for Guardian ad Litem
By: MORTON SCHLOSSBERG, ESQ., of Counsel.

THE COURT: First, I should like the record to note that this office communicated with Mr. Benisch and Mr. Ormstein twice in the last half hour, only to be told he was on his way. He is not here, and it isn't likely he is going to make an appearance.

I also assume he was notified by Mr. Gilheany, and I notified him of this hearing at 1:30.

MR. GILHEANY: Yes, your Honor.

THE COURT: The record will note he has not made his appearance.

MR. BENISCH: Your Honor, I think you mentioned that you had called Mr. Benisch's office.

THE COURT: No, no, I am sorry, I misspoke myself. That was Mr. Ormsten of the SEC.

I am ready.

MR. GILHEANY: Your Honor, I have for submission to the Court, and I have served copies on all parties who are here present, a proposed order to show cause and temporary restraining order restraining the further liquida-

29. The claim of Timothy C. Tilney in connection

MR. GILHEANY: Your Honor, Mr. Tilney is the owner of controlling interests in Governmental Statistical.

THE COURT: In whose name is the property?

MR. GILHEANY: In the name of Governmental Statistical Corporation.

On the property stands the building out of which Mr. Tilney presently conducts all the business by which he earns his livelihood, so that through the corporate function of Governmental Statistical, Mr. Tilney is vitally involved in the retention of this property.

A further aspect of this is that these two parcels that are now up for sale are contiguous to a third parcel, and, as I understand it, the value of all three together to Mr. Tilney, who also owns controlling interest in a company which owns the third parcel --

THE COURT: These are all allegations.

Is it fair to assume you are not retained by Governmental Statistical, and you do not represent them here today?

MR. GILHEANY: That is correct, your Honor.

THE COURT: If you seek a stay of the execution of this judgment, isn't it jurisdictionally inappropriate to be here?

Should you not have applied or moved before the

MR. GILHEANY: That is correct, your Honor. The third point is that our position is that the judgment is the asset on which the receivers are now attempting to liquidate, and in our view to the detriment ultimately of Mr. Tilney, because of his interest in this property through Governmental Statistical Corporation.

THE COURT: I don't see how the estate has any alternative but to act on a legally filed judgment in view of a failure of satisfaction.

I think that they would expose themselves to certain admonition, if not a surcharge, if they didn't proceed to attempt to collect on this judgment.

MR. GILHEANY: This might be true if there were not sufficient liquid assets in the estate to wind up the receivership estate.

THE COURT: I don't think that has anything to do with it, Mr. Gilheany, I don't. I wish you had thought this matter out a little further.

MR. GILHEANY: Your Honor, this Court has jurisdiction over the receiver, and it's the receiver who is seeking to execute on this judgment.

We believe that this court may properly restrain the receiver from seeking to execute on the judgment, viewing the judgment as an asset of the receiver-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

67 Civ. 4676

TILNEY & COMPANY,
FREDERICK TILNEY,

Defendants.

- -

EDELSTEIN, D.J.

FINDINGS OF FACT
and
CONCLUSIONS OF LAW

By an order to show cause signed by the court on July 7, 1969, Joseph Logan, Receiver of the assets of the defendants Tilney & Company and Frederick Tilney, petitioned this court for an order appointing a Guardian ad Litem to represent the three minor children of Dorothy McCabe Tilney and Frederick Tilney with respect to certain claims which the infants have against the defendants. This petition was the subject of a hearing held on July 24, 1969. Thereafter, on July 28, 1969, the court appointed Arnold Bauman, Esq.,

Guardian ad Litem of the said infants.

Subsequently, on September 11, 1969, the Guardian ad Litem filed proofs of claim sworn to on September 10, 1969, with the Receiver on behalf of the three infants. Then, by a supplemental order to show cause signed by the court on September 16, 1969, the Receiver petitioned the court for an order expunging, for the purpose of this receivership, all of the claims filed by the Guardian ad Litem. A hearing on this petition was held on September 23, 1969, at which time testimony was heard and exhibits were received by the court, including the deposition of Frederick Tilney, taken on September 8, 1969, which is deemed in evidence. The Securities and Exchange Commission, the Receiver, the Guardian ad Litem, Mr. Frederick Tilney, and Mrs. Dorothy M. Tilney, all appeared at this hearing. On February 6, 1970, a report of the Guardian ad Litem was filed with the court, and, on the same date, an affidavit in opposition to this report was filed on the Receiver's behalf by his counsel. The Guardian requested in his report that it be considered an amended proof of claim and this request is granted, there being no opposition thereto from the Receiver. Dorothy M.

Tilney has filed with the court an affidavit in opposition to the Receiver's petition for an order expunging the claims of her children against the defendants.

The court having reviewed all of the evidence submitted in this matter, and having considered the memorandum of law and the report of the Guardian ad Litem, and having considered the memoranda of law of the Receiver, makes the following findings of fact and conclusions of law:

1. Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr. are the children of Frederick Tilney and Dorothy McCabe Tilney. Each child is under twenty-one years of age.

2. On September 11, 1969, a proof of claim was filed with the Receiver on behalf of each of these infants. Each proof of claim sets forth claims for the following:

a. monies due upon promissory notes executed by Frederick Tilney in favor of each infant;

b. monies due because of withdrawals from various savings accounts; and

c. the value of certain shares of stock together with stock and cash dividends paid thereon, which stock was sold by Frederick Tilney.

Promissory Notes

3. Between 1953 and 1966 Frederick Tilney executed fourteen promissory notes each payable to his daughter Kathleen Gail Tilney, which notes are in the total sum of $41,860 plus interest at 6 percent per annum.

4. Between 1957 and 1967 Frederick Tilney executed eleven promissory notes each payable to his daughter Dorothy C. Tilney, which notes are in the total sum of $32,890 plus interest at 6 percent per annum.

5. Between 1961 and 1967 Frederick Tilney executed seven promissory notes each payable to his son Frederick Tilney, Jr., which notes are in the total sum of $20,930 plus interest at 6 percent per annum.

6. None of the said promissory notes were given in return for any consideration and no payment on account of said notes was ever made by Frederick Tilney to any of the payees.

7. Frederick Tilney retained possession of said notes and the same were never delivered to the respective payees.

8. The promissory notes executed by Frederick Tilney payable to (a) Kathleen Gail Tilney in the total sum

of $41,860 plus interest, (b) Dorothy C. Tilney in the total sum of $32,890 plus interest, (c) Frederick Tilney, Jr. in the total sum of $20,930 plus interest, are invalid as contracts to pay money and are unenforceable against the receivership estate as such because of the lack of underlying consideration. E.g., Beckstrom v. Irvine, 60 N.Y. 146 (1875); Hilton v. Correa, 193 N.Y.S. 2d 543 (2d Dept. 1959); N.Y.U.C.C. §3-408 (McKinney 1964).

9. The promissory notes are also invalid as gifts and unenforceable against the receivership estate as such because the notes are undelivered, unexecuted promises to pay sums of money at a future time. E.g., Harris v. Clark, 3 N.Y. 94 (1849); In re Ray's Will, 138 Misc. 330, 245 N.Y.S. 626 (Sur. Ct. 1930).

10. The claims of the infants based upon the promissory notes shall be expunged.

Bank Accounts

11. A bank account in the Matinecock Bank, Bayville, New York, was maintained under the following title: "Frederick Tilney, Jr. in trust for Kathleen C. Tilney." On four separate occasions in 1967 Frederick Tilney made withdrawals from this account totaling $1600, as follows: October 4, $400; November

8, $200; November 20, $400; November 22, $600. The proceeds of these withdrawals were used by Frederick Tilney for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Kathleen Cail Tilney.

12. A bank account in the Tinker National Bank, East Setauket, New York, was maintained under the following title: "Frederick Tilney in trust for Kathleen Tilney." Frederick Tilney withdrew a total of $2525 from this account and used this money for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Kathleen Cail Tilney.

13. A bank account in the Lincoln First Federal Savings and Loan Association, Spokane, Washington, was maintained under the following title: "Kathleen Cail Tilney by Frederick Tilney or Dorothy McCabe Tilney." On December7, 1967, Frederick Tilney withdrew $1000 from this account. The $1000 was used to purchase 20 shares of the stock of the Waddington Bank, Waddington, New York for the benefit of Kathleen Cail Tilney. These shares subsequently were sold and the proceeds of the sale were used for the benefit of Frederick Tilney or for the benefit of his businesses. None

of the funds deposited in this account belonged to Kathleen Gail Tilney.

14. A bank account in the Manhasset Bank, Bayville, New York, was maintained under the following title: "Frederick Tilney, Jr. in trust for Dorothy C. Tilney." Frederick Tilney withdrew a total of $1650 from this account as follows: November 15, 1967 $550; November 20, 1967, $500; November 22, 1967, $200; November 27, 1967, $400. The proceeds of these withdrawals were used by Frederick Tilney for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Dorothy C. Tilney.

15. A bank account was maintained at the Tinker National Bank, East Setauket, New York, under the following title: "Dorothy H. or Fred Tilney, Jr., I.T.F. [in trust for] Dorothy C. Tilney." $1500 was withdrawn from this account on December 6, 1967, and $500 was withdrawn on December 14, 1967. The proceeds of these withdrawals were used by Frederick Tilney for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Dorothy C. Tilney.

16. A bank account was maintained at the Lincoln First Federal Savings and Loan Association, Spokane,

Washington, under the following title: "Dorothy C. Tilney with trustees Frederick Tilney and/or Dorothy McCabe Tilney." * A withdrawal of $1000 from this account was made on December 7, 1967. The $1000 was used to purchase 30 shares of the stock of the Waddington Bank, Waddington, New York, for the benefit of Dorothy C. Tilney. These shares subsequently were sold and the proceeds of the sale were used for the benefit of Frederick Tilney or for the benefit of his businesses. None of the funds deposited in this account belonged to Dorothy C. Tilney.

17. A bank account was maintained at the Matinecock Bank, East Setauket, New York, under the following title: "Frederick Tilney in trust for Frederick Tilney, Jr." $550 was withdrawn from this account on November 15, 1967, and $700 was withdrawn on November 27, 1967. The proceeds of these withdrawals were used by Frederick Tilney for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Frederick Tilney, Jr.

* The above is the title of the account as it was described in the testimony of Frederick Tilney. The proposed findings of fact submitted by the Guardian ad Litem and the Receiver agree that this account was entitled "Dorothy C. Tilney by Frederick Tilney or Dorothy H. Tilney." Whichever title is correct the legal conclusion remains the same.

18. A bank account was maintained at the Tinker National Bank, Bayville, New York, under the following title: "Frederick Tilney in trust for Frederick Tilney, Jr." $600 was withdrawn from this account on December 15, 1967. This money was used by Frederick Tilney for his personal benefit or for the benefit of his businesses. None of the funds deposited in this account belonged to Frederick Tilney, Jr.

19. A bank account was maintained at the Lincoln First Federal Savings and Loan Association, Spokane, Washington, under the following title: "Frederick Tilney, Jr. by Frederick Tilney, Sr. or Dorothy M. Tilney." A total of $1008.66 was withdrawn from this account on December 7, 1967, and $1000 of this money was used to purchase 30 shares of the stock of the Waddington Bank, Waddington, New York, for the benefit of Frederick Tilney, Jr. These shares subsequently were sold and the proceeds of the sale were used for the benefit of Frederick Tilney or for the benefit of his businesses. None of the funds deposited in this account belonged to Frederick Tilney, Jr.

20. There is no evidence that passbooks relating to any of the aforementioned bank accounts were ever delivered to any of the infants herein. Nor is there any

evidence that the infants herein, by any other means, were given dominion and control over any of these bank accounts.

21. The claims of Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr. for $5125, $4650, and $2858.66 respectively, representing withdrawals from the accounts in the Matinecock Bank, the Tinker National Bank, and the Lincoln First Federal Savings and Loan Association are invalid claims and are unenforceable against the receivership estate. These bank accounts were no more than tentative trusts which could be revoked at will and which were revoked to the extent that moneys were withdrawn therefrom. Also, executed gifts of the bank accounts to the infants were never made. See, e.g., Matter of Totten, 179 N.Y. 112, 71 N.E. 748 (1904); Beaver v. Beaver, 117 N.Y. 421,22 N.E. 940 (1889); In re Shertle's Estate, 206 Misc. 35, 130 N.Y.S. 2d 233 (Sur. Ct. 1954); In re Vaughan's Estate, 145 Misc. 332,260 N.Y.S. 197 (Sur.Ct. 1932).

22. The claims of the infants based upon the withdrawals from the aforementioned bank accounts shall be expunged.

Foundation

23. 221 shares of Tinker National Bank stock were registered in the names of Frederick Tilney, Jr. and Dorothy M. Tilney in trust for or for the benefit of Kathleen Gail Tilney. An additional 31 shares of Tinker National Bank stock were registered in the form "Frederick Tilney Jr. and Dorothy M. Tilney as Custodian for Kathleen G. Tilney, Uniform Gift Minors Act, N.Y." All of these 252 shares of stock were sold by Frederick Tilney, and the proceeds of the sale were used by him for the benefit of Tilney & Company.

24. 76 shares of Tinker National Bank stock were registered in the form "Frederick Tilney Cust. Dorothy C. Tilney Unif. Gift Min. Act N.Y." These shares of stock were sold by Frederick Tilney, and the proceeds of the sale were used by him for the benefit of Tilney & Company.

25. 77 shares of Long Island National Bank stock were registered in the form "Mr. Frederick Tilney, Custodian for Miss Dorothy C. Tilney." These shares of stock were sold by Frederick Tilney, and the proceeds of the sale were used by him for the benefit of Tilney & Company.

26. 62 shares of Long Island National Bank stock were registered in the form "Frederick Tilney, Sr., Custodian

for Frederick Tilney, Jr." These shares of stock were sold by Frederick Tilney, and the proceeds of the sale were used for the benefit of Tilney & Company.

27. The New York Uniform Gifts to Minors Act, E.P.T.L. 87-4.1 (McKinney 1967), formerly N.Y. Personal Property Law §265, specifically provides that only one person may be the custodian of a gift made pursuant to the Act.

28. The claim of Kathleen Gail Tilney in connection with the 252 shares of the stock of Tinker National Bank sold by Frederick Tilney is an invalid claim, unenforceable against the receivership estate. Also invalid and unenforceable against the receivership estate are the claims of Dorothy C. Tilney and Frederick Tilney, Jr. in connection with the 77 and 62 shares respectively of the stock of the Long Island National Bank sold by Frederick Tilney. No consideration was given by the infants for any of these shares, and the mere registration of securities in a form indicating that they have been acquired for the benefit of another, without additional evidence, does not support a conclusion that a gift of the securities has been made. E.g., In re Schenk's Will, 208 Misc. 762, 140 N.Y.S. 2d 802 (Sur.Ct. 1955); In re Hayes' Estate, 153 Misc. 233, 275 N.Y.S. 466 (Sur.Ct. 1934).

These claims shall be expunged.

29. The claim of Dorothy C. Tilney in connection with the 76 shares of the stock of Tinker National Bank sold by Frederick Tilney is a valid claim, enforceable against the receivership estate. These shares were the only shares registered properly in accordance with the New York Uniform Gifts to Minors Act, E.P.T.L. §7-4.1 (McKinney 1967), formerly N.Y. Personal Property Law §265. An effective gift of these shares to this infant, therefore, was made. New York Uniform Gifts to Minors Act, E.P.T.L. §7-4.2 (McKinney 1967), formerly N.Y. Personal Property Law §265-a.

It is so ordered, and counsel for the Receiver will submit an appropriate judgment on notice in accordance herewith.

DAVID N. EDELSTEIN
U. S. D. J.

Dated: New York, N.Y.
December 30, 1970.

D STATES DISTRICT COURT
ERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

67 Civ. 4676

TILNEY & COMPANY,
FREDERICK TILNEY,

Defendants.

#37330

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S.D. OF N.Y.

EDELSTEIN, D.J.

FINDINGS OF FACT
and
CONCLUSIONS OF LAW

Frederick Tilney, as Executor of the Estate of Camilla H. Tilney, Dorothy M. Tilney personally, and, as she characterizes herself, as legal guardian of Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr., and Tilney & Company, Inc. by Dorothy M. Tilney, its Secretary-Treasurer, all have asserted various claims against Tilney & Company and Frederick Tilney, the defendants in this action. Joseph C. Hogan, the duly appointed and qualified Receiver of the assets of the defendants, by an order to

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show cause signed by the court on April 10, 1970, petitioned the court for an order expunging all of these claims. A hearing on this petition was held on April 29, 1970, and this hearing was continued on May 7, 1970, and on May 26, 1970. Notice of these proceedings was given to the claimants. Frederick Tilney was present in court on April 29 and he and his counsel and Dorothy M. Tilney were present in court on May 7 and on May 26. At the hearing the claimants relied on their proofs of claims themselves and on an affidavit of Dorothy M. Tilney dated February 24, 1970, and on the affidavits of Frederick Tilney and Edith Crabill attached thereto. The Receiver elicited testimony from Frederick Tilney and Brooke V. Postley on the question of possible diversion of assets from the receivership estate to Tilney & Company, Inc. in connection with the claim of Tilney & Company Inc. against Tilney & Company in the amount of $16,284.72. The court having reviewed the record in this matter makes the following findings of fact and conclusions of law:

Findings of Fact

1. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Frederick

Tilney, as Executor of the Estate of Camilla H. Tilney, deceased, has made a claim against the assets of Tilney & Company in the amount of $680.

2. In support of this claim the claimant relies exclusively on the proof of claim itself.

3. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney, assertedly as legal guardian of Kathleen Gail Tilney, has made a claim on behalf of said infant against the assets of Tilney & Company in the amount of $435.

4. Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr. are the children of Frederick Tilney and Dorothy McCabe Tilney. Each child is under twenty-one years of age.

5. By order of this court dated the 28th day of July 1969, Arnold Bauman, Esq. was appointed Guardian ad Litem of Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr. for the purpose of representing the interests of said infants in this proceeding.

6. Proofs of claims sworn to the 10th day of September 1969 have been filed with the Receiver by Arnold Bauman as Guardian ad Litem.

7. By leave of the court, the facts and amounts of said proofs of claim have been amended by the Report of the Guardian ad Litem filed with the court on February 6, 1970. The claim for $435 asserted by Dorothy M. Tilney on behalf of Kathleen Gail Tilney was not asserted by the Guardian ad Litem.

8. In support of this claim the claimant, Dorothy M. Tilney, relies exclusively on her proof of claim itself and on an affidavit sworn to by her on the 24th day of February 1970. Mrs. Tilney's affidavit reasserts the claim for $435 but fails to present any evidentiary support for it.

9. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Tilney & Company in the amount of $2,040.

10. In support of this claim the claimant relies exclusively on the proof of claim itself.

11. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Tilney & Company in the amount of $1,550.

12. In support of this claim the claimant relies

exclusively on the proof of claim itself.

13. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Tilney & Company, Inc., by its Secretary-Treasurer, Dorothy M. Tilney, has made a claim against the assets of Tilney & Company in the amount of $19,053.99.

14. In support of this claim the claimant relies exclusively on the proof of claim itself.

15. By proof of claim sworn to the 26th day of November 1969 and filed with the Receiver herein, Tilney & Company, Inc. by its Secretary-Treasurer, Dorothy M. Tilney, has made a claim against the assets of Tilney & Company in the amount of $11,252.

16. In support of this claim the claimant relies exclusively on the proof of claim itself.

17. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Tilney & Company, Inc., by its Secretary-Treasurer has made a claim against the assets of Tilney & Company in the amount of $16,284.72.

18. The amount claimed represents the alleged

cash value of (a) a stock dividend declared on certain shares of stock of Tinker National Bank which were later converted into shares of Marine Midland Tinker National Bank stock, and (b) the amount of cash dividends declared on said converted shares of stock.

19. The dividends in question were declared at a time when the stock was registered in the name of Frederick Tilney. The stock now is registered in the name of Brooke V. Postley.

20. Frederick Tilney and Brooke V. Postley testified in connection with this claim of Tilney & Company, Inc. They testified that in 1966 ownership of the Tinker National Bank stock in question was transferred to Brooke V. Postley from Frederick Tilney subject to a flexible unwritten agreement that Tilney & Company could repurchase the stock at any time if Postley were agreeable. The repurchase was to be effected at the price originally paid for the stock by Postley regardless of any increase in the actual market price of the stock at the time of repurchase.* They also testified that this repurchase agreement subsequently was orally assigned by Tilney & Company to Tilney & Company, Inc., thereby, according to Frederick Tilney, providing Tilney &

Company, Inc. with standing to make this claim. The court has carefully considered all of the testimony given by these two men and finds their testimony of their transaction incredible and unworthy of belief.

21. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Tilney & Company in the amount of $2,500, which allegedly represents the claimant's capital contribution as a limited partner to Tilney & Company.

22. In support of this claim the claimant relies exclusively on the proof of claim itself.

23. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Frederick Tilney in the amount of $55,000, a sum said to represent one-half of the balance due on a promissory note signed jointly by Frederick Tilney and the claimant in favor of the Tinker National Bank. The funds realized from the note allegedly were used to improve the capital position of Tilney & Company.

24. Upon the petition of the Marine Midland Tinker National Bank, successor of the Tinker National Bank, on July 31, 1970, the court ordered the Receiver and Frederick Tilney to make, execute and deliver to the Marine Midland Tinker National Bank a bond and mortgage covering real property located in Nassau County of the State of New York. Said bond and mortgage were to be given in full payment and satisfaction of the claim made by the Marine Midland Tinker National Bank against the Receiver in connection with the promissory note upon which Dorothy M. Tilney predicates her said claim for $55,000.

25. In support of this claim the claimant relies exclusively upon the proof of claim itself.

26. By proof of claim sworn to the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Frederick Tilney in the amount of $126,050.

27. In support of this claim the claimant relies exclusively upon the proof of claim itself.

28. By proof of claim sworn to on the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney has made a claim against the assets of Frederick

Tilney in the amount of $2423.94.

29. In support of this claim the claimant relies exclusively upon the proof of claim itself.

30. By proof of claim sworn to on the 28th day of November 1969 and filed with the Receiver herein, Dorothy M. Tilney assertedly as legal guardian of Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr., has made a claim against the assets of Frederick Tilney in the amount of $34,650 based upon promissory notes executed by Frederick Tilney in favor of each of said infants.

31. This claim previously was asserted by Arnold Bauman as Guardian ad Litem for said infants in his various proofs of claims and Report.

32. By supplemental order to show cause signed by the court on September 16, 1969, the Receiver petitioned the court for an order, inter alia, expunging this claim. The Receiver's petition was granted by the court in its findings of fact and conclusions of law filed on December 30, 1970.

Conclusions of Law

1. The following claims shall be expunged because the respective claimants totally failed to support their claims by any evidence whatever:

a. the claim of Frederick Tilney as Executor of the Estate of Camilla H. Tilney against Tilney & Company for $680;

b. the claim of Dorothy M. Tilney against Tilney & Company for $2040;

c. the claim of Dorothy M. Tilney against Tilney & Company for $1550;

d. the claim of Tilney & Company, Inc. by Dorothy M. Tilney, its Secretary-Treasurer, against Tilney & Company for $19,053.99;

e. the claim of Tilney & Company, Inc. by Dorothy M. Tilney, its Secretary-Treasurer, against Tilney & Company for $11,252;

f. the claim of Dorothy M. Tilney against Tilney & Company for $2,500;

g. the claim of Dorothy M. Tilney against Frederick Tilney for $55,000;

h. the claim of Dorothy M. Tilney against Frederick Tilney for $126,050; and

1. the claim of Dorothy M. Tilney against Frederick Tilney for $2423.94.

2. The claim made by Dorothy M. Tilney assertedly as legal guardian of Kathleen Gail Tilney against Tilney & Company for $435 shall be expunged. By virtue of the appointment of Arnold Bauman as Guardian ad Litem of Kathleen Gail Tilney, the latter's interests in this proceeding are represented by the Guardian and they are not the proper subject matter of a claim herein by Dorothy M. Tilney. In addition, Dorothy M. Tilney totally failed to support her claim by any evidence whatever.

3. The claim of Tilney & Company, Inc. by Dorothy M. Tilney, its Secretary-Treasurer, against Tilney & Company for $16,284.72 shall be expunged. Tilney & Company, Inc. failed to support its claim by any credible evidence. Moreover, even if the testimony elicited in connection with this claim could be believed, and even if it could be assumed that the facts testified to would support the conclusion that binding legal agreements were entered into, the assignment to Tilney & Company, Inc. of an agreement enabling it to repurchase stock transferred to Brooke V. Postley does not confer standing on Tilney & Company, Inc. to assert a claim

for the value of dividends declared on that stock.

4. The claim made by Dorothy M. Tilney assertedly as legal guardian of Kathleen Gail Tilney, Dorothy C. Tilney, and Frederick Tilney, Jr. against Frederick Tilney for $34,650 is a claim that previously was asserted by Arnold Bauman as Guardian ad Litem of the three infants. The petition of the Receiver to expunge this claim was granted by the court in its findings of fact and conclusions of law filed on December 30, 1970.

It is so ordered, and counsel for the Receiver will submit an appropriate judgment on notice in accordance herewith.

U. S. D. J.

Dated: New York, N.Y.
January 14, 1971.

* According to the testimony the Tinker National Bank stock was transferred by Frederick Tilney to Brooke V. Postley in two blocks: 1250 shares at $85 a share, and 4000 shares at $86 a share. Mr. Postley testified that the repurchase agreement provided that the stock would be repurchased at $86 a share.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff,	
-against-	AFFIDAVIT IN OPPOSITION
TILNEY & COMPANY, FREDERICK TILNEY, Defendants.	67 Cov. 4676

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ROBERT G. BENISCH, being duly sworn, deposes and says:

I am an attorney-at-law acting of counsel to the firm of Wagner, Quillinan & Tennant, attorneys for the Receiver herein.

This affidavit is submitted in opposition to defendants' motion for an order terminating the receivership in this proceeding, permanently enjoining the further liquidation of receivership assets and fixing final administration expenses herein.

Defendants' motion is predicated on the allegation that there are presently sufficient liquid assets in the hands of the Receiver with which to satisfy the claims of all creditors in full and to pay reasonable administration expenses. As will be demonstrated hereinafter, this allegation is completely false and patently without merit.

Submitted herewith and incorporated by reference herein is a Financial Report as of October 31, 1970, prepared by the accountants for the Receiver

which sets forth the present financial condition of the receivership. In substance said report reflects liquid assets on hand of approximately $391,860 (inclusive of the approximate net amount to be received on the sale of the Alaska property) as against book liabilities of $322,828. On these figures there would be a surplus on hand of approximately $69,032 after payment in full of creditors' claims.

There are presently on file in this Court, applications for partial and final allowances and expenses which applications have temporarily been withdrawn. These applications were filed at the insistence of the Securities and Exchange Commission (S.E.C.) and the defendant at the cost of considerable time and effort on the part of the various administrators involved. The Court will recall that these applications were thereafter noticed to be heard by this Court on November 16, 1970. However, on October 15, 1970, at a hearing called at the request of the S.E.C., the S.E.C., in reversal of its previous position, indicated to the Court that it was opposed to any consideration or determination by the Court of partial or interim fees or allowances. The position of the S.E.C. was (and to my knowledge still is) that all applications for allowances should be deferred until such time as there are sufficient liquid assets on hand which would permit the payment of creditors' claims and administration expenses out of said liquid assets. At said hearing

the defendants through their attorneys concurred in the aforestated position of the S.E.C. and supported its speaking application which had been presented to the Court.

It is respectfully submitted that the Court and the various parties concerned should bear in mind that administration expenses have, by law,

a priority position with respect to the payment of claims against the receivership estate. At present there are applications for administration fees on file totalling approximately $211,920. Since the period covered by the particular applications the Receiver has devoted approximately 138 additional hours to receivership matters, his attorneys have devoted approximately 150 additional hours on receivership matters and the Receiver's accountants have devoted approximately an additional 250 hours on receivership matters. These additional hours, plus substantial further additional hours which will be required to be spent, all will be the subject of further applications for payment therefor in addition to reimbursement for additional out-of-pocket expenses. In addition, defendants application has not taken into account the application to be made by Arnold Bauman, Esq. as Guardian ad Litem of the Tilney children in this proceeding. I am advised that this application will be filed subsequent to the entry of the final judgment on said childrens' claims.

Based on the foregoing, the defendants' contention as set forth in their moving papers, that administration expenses herein should be fixed well under $100,000 becomes

obviously absurd. It is the duty and function of the Receiver herein to liquidate sufficient assets with which to pay, insofar as possible, just claims of creditors and reasonable administration expenses. The primary responsibility for the judgment involved in arriving at a cash figure which will accomplish this rests with the Receiver as an officer of the Court. This principle has been followed throughout this proceeding by the S.E.C.

At the abovementioned hearing held on October 15, 1970 the representative of the S.E.C. stated in clear terms that it was not the Commission's position to oppose the judgment of the Receiver and his counsel in the matter of the liquidation of assets and that in large measure the S.E.C. is relying in the liquidation of assets upon the judgment of court appointed officers. (See Stenographer's Minutes of October 15, 1970 hearing, p. 34).

Although the defendants herein clearly have an interest in the liquidation of receivership assets, they have not the right to substitute their judgment for that of the Receiver acting pursuant to law and the mandate of this Court. It is submitted that in essence, the defendants in the motion at bar have evolved a figure for administration expenses based not on the fair and reasonable value of services rendered herein, but rather on the amount of the present cash excess in the hands of the Receiver after the payment of all creditors' claims in full. It is the considered judgment of the Receiver that this approach accomplishes only one thing, namely, a further delay in winding up this matter and additional expenses of administration. It is further the judgment

of the Receiver that were the liquidation of assets to be halted at this time and applications for final allowances made and thereafter fixed by the Court in a fair and reasonable amount, there would not be sufficient cash on hand after the payment of such expenses to pay creditors' claims in full.

What has taken place during the course of this receivership is that

countless hours of administration costs have been occasioned by the recalcitrant, arbitrary and obstructive activities of Mr. Tilney who now comes before this Court in an attempt to cut to the point of the ridiculous, the administration expenses which, in large measure, he is directly responsible for incurring. Further, it should not escape the attention of the Court that this application is made at a time when certain assets in which Mr. Tilney has a vital interest are in the process of being liquidated. Without argument, the Receiver at the very outset of this proceeding over three years ago, could have liquidated the Tilney home and the real property of Governmental Statistical Corporation. In an attempt to apply a standard of reason and fairness to all concerned, including creditors, the sale of these assets was deferred in the hope that with a modicum of cooperation from the defendants, such sales would not ultimately be necessary. Such, however, has not been the case as hereinbefore indicated and as a consequence it is apparent that further assets must presently be liquidated.

It is respectfully submitted to the Court that when, during the course of this receivership, the judgment of the defendants conflicts with the judgment of the Receiver it is

the Receiver's judgment that should and must prevail. It is the Receiver in the final analysis who must answer to the public, the S.E.C. and this Court for the conduct of the administration of this receivership, not the defendants or more specifically, Mr. Tilney. It is the considered opinion of the Receiver as well as his attorneys, that the point has not yet been reached where liquidation of assets should cease and applications for final allowances be made. Further assets must yet be liquidated which, with the

cooperation of Mr. Tilney, should take a minimal amount of time and expense. When the proper time has been reached, the Receiver is fully prepared to present to this Court a fair and feasible plan of termination based upon practical facts rather than argumentative hypotheses. Only at such time will it be possible for the various administrators to submit applications for final allowances herein. This is not to say that the Receiver anticipates liquidation of all of the remaining available assets but rather only a sufficient number to bring the cash assets on hand into line with the liabilities of the estate.

Should the administrators be once again put to the task or preparing further quasi-final applications for allowances, valuable time will be lost in the administration of this estate. In view of the prior stated position of the S.E.C. it is reasonable to assume that the S.E.C. will once again object to the Court's consideration of these applications on the same basis as that expressed at the hearing on October 15, 1970. Consistent with this approach, the S.E.C. would be left with no alternative other than to request that

the Receiver continue further liquidation of assets until in his judgment there are sufficient liquid assets to satisfy creditors' claims and expenses of administration.

In view of the above, it is neither necessary nor proper to take up at this point the question of what the amount of final administration expenses should or will be. To do so would be engaging in pure speculation. The Court can be assured, however, that the Receiver will submit to it his

plan for termination coupled with applications for final allowances at the earliest practical time.

Based on the foregoing, it is respectfully requested that the Court deny in all respects the motion to terminate which has been made by the defendants.

Robert G. Benisch
Robert G. Benisch

Sworn to before me this
26th day of January, 1971.

Notary Public

UNITED STATES DISTRICT COURT [1]

SOUTHERN DISTRICT OF NEW YORK

- -x

SECURITES & EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 67 Civ. 4676

TILNEY & COMPANY and FREDERICK TILNEY, :

Defendants. :

- -x

January 29, 1971.
2:20 P.M.

Before:

Hon. David N. Edelstein,
District Judge.

APPEARANCES:

Franklin Ormsten, Esq., and
Dennis Block, Esq.,
Attorneys, Securites & Exchange Commission.

Wagner, Quillinan & Tennant, Esqs.,
Attorneys for Receivers,
Robert G. Benisch , Esq., of Counsel.

I. Alan Harris, Esq.,
Withdrawn Co-Receiver.

Cadwalader, Wickersham & Taft, Esq.,
Attorneys for Defendants,
Terence F. Gilheany, Esq., and
Michael A. McManus, Jr., Esq., of Counsel.

APPEARANCES:

Saxe, Bacon & Bolan, Esqs.,
Attorneys for Mrs. Tilney,
Thomas A. Bolan, Esq., of Counsel.

Arnold Bauman, Esq.,
Attorney for Guardian ad Litem,
Morton Schlossberg, Esq., of Counsel.

Also present:

Mr. Frederick Tilney
Mrs. Dorothy Tilney
Mr. Jerry Klein
Dr. B. Bernard Greidinger
Mr. William Linden, Esq.

THE COURT: I am ready to hear the motion.

MR. GILHEANY: May it please the Court, this is a motion by the defendants to terminate this receivership and for an injunction restraining further liquidation of as yet unliquidated receivership assets on the ground that the receiver presently holds sufficient liquid assets to pay all creditors of the receivership and fair administrative expenses.

In the affidavit of the attorney for the receiver in opposition to this motion, he states that as of October 31, 1970, there was a surplus of approximately $69,000 in the hands of the receiver after payment in full of creditors' claims. Presumably that could be applied to the payment of administrative expenses.

In a report of the accountant for the receiver, which I received, I believe, late yesterday, it appears that the receiver has taken cash in hand since October 31, 1970, of approximately $72,000. This would add up, the exact figures, as I have added them up, which would seem to indicate that the receiver now holds $140,984 over what is necessary to pay off the claims of the creditors.

As your Honor wishes, but perhaps if I am mistaken in that, it could be clarified on the record now so that I don't proceed on a mistaken assumption. This is the way

the estate should, nevertheless, be terminated with a direction to the receiver to liquidate whatever assets are necessary to pay those -- that excess of administration expenses over the cash on hand. We have not spent much time on the question of the value of the administration expenses or what they may be because, apparently, the first question to be determined is whether your Honor feels that they should be fixed at this time.

In the event your Honor does feel that the Court should terminate the estate and fix expenses, we, Mrs. Tilney and Mr. DeBuena, would like an opportunity to present its position on that question. It is their opinion that rather than any expenses as far as receiver fees are concerned, there should be a surcharge of the estate in that regard, and in your affidavit we have spelled out some six items where we feel that the receivers have acted incompetently in disposing of assets of the estate to the damage of the estate.

THE COURT: All right. Mr. Benisch.

MR. BENISCH: Your Honor, in order to fully understand the receiver's position as expressed in my affidavit in opposition herein, I believe we have to go back in time to October of 1970, at which time at the insistance of the

defendants and the Securities & Exchange Commission the various administrators submitted applicstions for allowances. Some were partial and one was final. This was done, your Honor, in order to get some idea as to what the administrative expense liability would be in connection with this estate.

At a hearing on October 15th of 1970, called at the request of the SEC, the SEC stated to this court in reversal of its previous position that it did not think that the court should undertake to take up the question of partial applications for allowances or applications for partial allowances. As a result or in addition the defendant at that time concurred in the SEC's application and stated that no consideration should be given in their opinion to partial applications. As a result these applications were temporarily or tentatively withdrawn or the motion for the fixing of them was withdrawn and the receiver proceeded to continue to liquidate or attempt to liquidate assets of this estate pursuant to his duty as receiver.

I know now from the SEC's affidavit that this position has been changed once again. So what I am leading up to, your Honor, is that much of the contents of my affidavit in opposition was predicated on the assumption that the SEC was going to remain consistent in its approach

to applications for allowances and that approach was, your Honor, until such time as there is in the judgment of the receiver sufficient liquid assets on hand with which to pay creditors 100 per cent plus whatever increment thereof and expenses, reasonable and fair expenses of administration.

The SEC was not going to agree or aver, allowing this court to consider applications for allowances.

Now, at the present time, as indicated earlier on the record, based on the accountant's reports or report, which has been updated to date, and, parenthetically, whether it is certified or uncertified, I don't think that is of any great moment in view of the fact that much of this information is not capable of certification, but, be that as it may, their figures indicate that the receiver has presently on hand $391,860 of liquid assets as against book liabilities of $322,828. This liability figure is arrived at by considering the customer's cost, no increment. In other words, paid in value without any increment. This is the bare bones of the liabilities.

Based on these figures we come up with approximately an excess on hand of creditors' claims of $69,000.

The administrators have been working on this matter for over three years and, frankly, no one is more interested in winding it up than the present administrators. This is

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without dispute.

However, it seems to me manifest that $69,00 for expenses of counsel, a receiver and co-receiver and accountants for three years' work is ridiculously low. I do not pretend to take it upon myself to estimate what their fees should be. I am only saying that it is certainly clear that it is going to be in excess of $69,000. That being the case, to cease liquidation of further assets at this point on the arguments or on the strength of the argument that we have enough assets on hand I think is a fatuous thing to do.

I believe that we will lose the time that will be necessary to liquidate these assets by virtue of having to prepare final applications, submitting it to the court, the court will have to deliberate and make its findings. In the meantime, Mr. Tilney sits with his assets, the creditors sit without their money and this thing is again prolonged while we sit and wait for something to be fixed.

I am saying, your Honor, that I don't know whether we will have to liquidate all or a majority of all the remaining assets, convert them into cash. But I feel sure that we will certainly have to liquidate an amount to bring us in excess of $69,000.

To that end I believe the receiver should proceed

with his liquidation in order, as a practical matter, to accumulate and bring into line the assets of the estate with the liabilities or with the fair and feasible liabilities which we will incur.

So the essence of the opposition here, your Honor, is that in the considered opinion of the receiver, that is to halt the liquidation here, would be premature. The receiver has certain assets which it can liquidate, and I'm now referring to the SEC's affidavit here wherein it states that it appears on information and belief that some of the remaining assets consisting of real property would be rather costly and time consuming to reach, but they could be sold.

I submit to the Court that there is an asset which would not be at all difficult to reach. It is right within the scope of this receivership. That asset is a house and lot located in Center Island, which is presently the Tilney home. There would be no difficulty other than perhaps some activity on the part of Mr. Tilney, but there would be no difficulty in reaching this asset. The receiver has control over this asset.

We have attempted to avoid liquidating this asset out of a hope that it wouldn't be necessary. Well, I submit that the facts have indicated that due to certain positions

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there are four possible positions, your Honor, I think we could continue as we have done, which is essentially Mr. Benisch's position.

I respectfully submit, speaking for the Securities & Exchange Commission, that that would be unacceptable for the very frank reason that there is a continuing and consistent and growing protest on the part of the people who have yet to be paid, as manifest through the U.S. Attorney's office in Alaska and through various congressional representatives, so we feel a great press here, and I believe that the equities of the situation require speed as far as paying to the individuals.

I think that therefore to continue now without a definite termination date would be unwise.

A second alternative, which I believe was Mr. Gilheany's position, would be to terminate now, pay now and whatever is left will be used for fees.

I think since there is a question of priority as to fees, a question of the work done and conceding to Mr. Benisch that there has been work in progress three years, I think that that might be arbitrary as well.

Your Honor, I submit that a third alternative, and it is the alternative which we have implied in part

and to which Mr. Bolan agreed, might well be the most efficacious solution to what in essence has been a dilemma, and that [illegible] rather than to arbitrarily fix fees at what Mr. Benisch feels is an arbitrary low of $69,000 or $211,000, which Mr. Tilney and his counsel apparently feel is arbitrarily high, we should have a submission of final fees now.

The court after hearing all the factors should set those fees and then if further liquidation is necessary, that further liquidation having upon it the necessity of a court's approved fee would go forth I think with far less opposition.

I think that the reason why this would be effective is, one, Mr. Tilney has indicated throughout that he is fearful that the liquidation will exceed that which is legitimate and necessary.

I think, secondly, that it is not so impossible to estimate these fees because, as Mr. Benisch has indicated, at least in respect to the $69,000 item, it is not so impossible to look at certain figures and say that on their face they seem inappropriate. So I think we do have some sense of guidelines.

I think finally, again, Mr. Benisch's point is well taken, that there apparently are certain assets which,

in with the mortgage on the Tilney home, and I do not think that we can surrender that so long as the mortgage is outstanding, unpaid on the Center Island real property.

MR. ORMSTEN: I know also, your Honor, that Mr. Hogan has liquidated certain of the securities which were assets. I don't know to what extent they remain.

It seems to me that if it were necessary to liquidate further assets, we might be able to arrive at a consensus as to what assets would be most fairly and easily liquidated.

I refer finally to our major point. There is no doubt that the bone of contention here are the fees, and I submit that they should be set, and it seems to me, with one final application in and substantial work done on the other three, that it can be done very expeditiously.

I think that we could move it quickly and I think the court, once it had everyone's viewpoint, would then be in a position to pass on it.

THE COURT: It seems that this motion really looms as a facade for a determination of fees. The fee issue is certainly very relevant here, and the arbitrariness on both sides of this counsel table would seek to preempt the decision of this court and to interfere with its discretion of fixing fees upon relevant information.

Nobody has said anything about arriving at an agreement, an amicable disposition of settling these fees. I don't think this motion is particularly well founded because the concentration and the thrust of this motion is based on an assumption that the expenses of administration, whatever those expenses may prove to be, will be met by liquidated assets or assets that are still available to the receiver. Nor has anybody suggested, and I address this particularly to you, Mr. Gilheany, in consideration of this motion that the proponents of the motion are prepared to undertake and to give a bond in the event the assets are not sufficient to meet all the obligations.

I think some thought ought to be given to that. I do certainly agree that we are in a position to make a substantial distribution of dividends to the creditors. Now, whether that sum should be 65 per cent or somewhat less than that, I am not prepared to indicate at this moment. I am prepared to have further discussion on the subject now.

MR. BOLAN: Your Honor, may I make one point? In Mr. Benisch's affidavit he states that we do not anticipate that it would be necessary to sell all of the assets in order to pay not only the creditors' claims but

all of the administration expenses. That being so, the receiver's judgment is that there isn't going to be any problem here of paying everybody off, including the administrators. It's just a question of how to do it and when to do it. So that we really don't have a problem at this point of worrying about whether there is enough in the estate.

THE COURT: Mr. Bolan, I am enlightened by the affidavit, but I do not consider that kind of assurance that would obviate the need for some undertaking. I think in view of the nature of the motion, which also asks that all further liquidation be enjoined, that an undertaking is required. So I think some consideration and heed ought to be made to that proposition.

I am not pressing you for an immediate answer, but I am urging you to think about it.

MR. GILHEANY: I will, sir. I will. I will give the court and all the parties a prompt answer.

THE COURT: Now I think that that might have a very definite impact on the final outcome of this motion.

MR. GILHEANY: Yes, your Honor.

MR. HARRIS: Your Honor, may I be heard?

THE COURT: On what point?

MR. HARRIS: Only on whether persons are not--

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Do you wish to be heard on that?

(No response.)

THE COURT: Mr. Gilheany, before we conclude this conference, do you have any wish to confer with Mr. Tilney and perhaps indicate your position on the matter of bond that is a suitable and satisfactory undertaking or would you prefer to do that at some later time?

MR. GILHEANY: Your Honor, because of the large group of people here and to save their time and your Honor's time, I will confer with Mr. Tilney promptly on this subject and I will advise the court in as short a period as you wish. I can be back to you next Monday or Tuesday.

MR. BENISCH: Your Honor, if I may. Mr. Gilheany, I thought that when you opened it up, you said in order to conserve the people time that you would speak with Mr. Tilney now. I thought it was going to be the ending of your conversation. There may be some discussion to be had on both the judge's suggestion here as between the parties. Rather than have a unilateral advising of the judge, I would suggest respectfully to his Honor that perhaps if it would not be deemed prejudicial in any way to the defendants here, that while we are all assembled here -- if it means a question of half an hour additional--

maybe this would be a good time for some meaningful dialogue to take place between the parties here on the procedure here. The receiver at the present time is still in a quandary as to how to proceed with the liquidation of this estate. If we can get one thing out of the way, that is the judge's suggestion relative to a bond, we at least are that much further along in what we are working toward.

MR. BOLAN: Your Honor, may I be heard a moment? I believe the receiver has indicated to Mr. Tilney an amount that he had requested or suggested that if Mr. Tilney put up, he would arrange to terminate the estate. If I'm not mistaken, I thought the amount was something like $60,000. Is that correct?

MR. BENISCH: You mean in addition to the present cash on hand, Mr. Bolan?

MR. BOLAN: Yes.

MR. BENISCH: Mr. Bolan, there had been several discussions between Mr. Hogan and myself and counsel for the defendants here in an attempt to find an agreeable legitimate way out of this morass. Now, during the course of the conversations figures were discussed, but I do not wish to put these figures on the record at this time. This I believe certainly would come under the category of settlement discussions. That is not to say that there was --

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION	:	
Plaintiff,	:	
-against-	:	
TILNEY & COMPANY FREDERICK TILNLY	:	AFFIDAVIT
	:	67 Civil 4676
Defendants.		

STATE OF NEW YORK) ss.:
COUNTY OF NEW YORK)

FRANKLIN D. ORMSTEN, being duly sworn, deposes and says:

1. That he is an attorney employed by the United States Securities and Exchange Commission, the plaintiff in this action.

2. That he submits this affidavit in partial opposition to the defendants' motion to

(a) terminate the receivership;

(b) permanently enjoin the further liquidation of receivership assets; and

(c) fix final administrative expenses.

3. This receivership is now entering its fourth year and the necessity for a swift and complete pay out, with interest if possible, to all creditors, particularly the public customers of Tilney & Company, is apparent and urgent.

4. Upon information and belief, the source of that information and the grounds for that belief being various reports and statements of the Receiver, the Receiver's accountants and the defendants, it appears that the receivership estate now has cash assets of approximately $400,000 and liabilities of approximately $280,000.

5. It further appears upon information and belief that the principal remaining assets of the estate are two plots of land in Hicksville, Long Island and Tilney's home in Oyster Bay, Long Island. I understand that the two plots would be rather costly and time-consuming to reach, but they could be sold.

6. Therefore, if it should appear to this Court as a result of facts adduced at the hearing on this motion that further liquidation of assets will be unduly protracted or substantially unproductive in that the realization of further funds will be offset by increased administrative costs and will therefore not materially enhance the chance of all creditors to receive a 100% payment plus interest in the near future, we respectfully urge this Court to speed resolution of this matter by setting final administrative costs at the minimal level compatible with a fair and reasonable standard. Once fees have been fixed the amount available for claims will be ascertained and the Court can determine whether further liquidation is warranted.

7. Should the Court decide that further liquidation is necessary but that funds from such liquidation cannot be swiftly realized we urge in the alternative that the Court order a large and substantial payment to all creditors now.

8. In conclusion we respectfully urge upon the Court the absolute necessity of a swift and fair termination of this matter compatible with the payment of fair administrative expenses and a full pay-out to all creditors. If facts presented to this Court

indicate that immediate resolution of this matter is not possible, we urge in the alternative the largest possible payment to all creditors at this time.

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff

By:

(signed)
FRANKLIN D. ORMSTEN

Sworn to before me this
29th day of January, 1971.

(signed) Alan M. Rashes
NOTARY PUBLIC

ALAN M. RASHES
Notary Public, STATE OF NEW YORK
No. 41-8496650
Qualified in Queens County
Commission expires March 30, 1972

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, [1]

Plaintiff,

vs 67 Civil 4676

TILNEY & COMPANY and
FREDERICK TILNEY,

Defendants.

New York, New York,
May 6, 1971; 10:45 a.m.

BEFORE:

HON. DAVID N. EDELSTEIN,
District Judge.

Appearances:

Franklin Ornston, Esq.,
For the Securities and Exchange Commission.

Joseph C. Hogan, Esq.,
Receiver.

Wagner, Quillinan & Tennant, Esqs.,
Attorneys for Receivers;
Robert G. Benisch, Esq., and
Robert Mulligan, Esq., of counsel.

Cadwalader, Wickersham & Taft, Esqs.,
Attorneys for Defendants;
Terence F. Gilhooly, Esq., of counsel.

Saxe, Bacon & Bolan, Esqs.,
Attorneys for Dorothy Tilney;
Melvin Rubin, Esq., of counsel.

Also Present;

Mr. Frederick Tilney,
Mr. B. Bernard Greidinger,
Mr. Jerry B. Klein,
Mr. Lawrence Hanrahan,
Mr. Alfred Koppel.

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THE COURT: Gentlemen, I think I should like to proceed with a discussion of the claims which have been set up in three schedules, Schedule A, Schdule B and Schdule C.

I expect that pursuant to my instructions that there would be available this morning supporting documents and that you would be able to explain some of these claims which I think requires some illumination. I don't think it will be necessary to discuss eachand every one of the claims unless the receiver or counsel on behalf of the receiver or the defendants feel that some discussion is required. So I would pin point the claims which I think require some clarification.

I direct your attention to Schedule A, which is in the catagory of customers' claims, number 19, Albert Edward Bennett. Can you tell me something about that? Tell me briefly who is Albert Edward Bennett and who the claim arises and

then is the claim immediatoly following that, Number 20, Albert Edward Bennett and Murray Evelyn Bennett.

MR. KLEIN: The items on schedule A, pages 1 through 6 represent croditors of Tilney and Company relating to customers' accounts, so all these are customers accounts, either cash balances or securities balances.

THE COURT: That is the fule schedule A but I am pin pointing certain claims that I would like to know more about. How did the claim of the Bennetts arise? Why are they set forth differently? Why aren't they contained in the same claim? In number 20 there is also included Murray Evelyn BEnnett, is that it?

MR. KLEIN: Yes. We will give yeh the exact items in just a minute.

Number 19 is the proof of claim file for Albert Edward Bennett as custodian for Michael Bennett, a minor. Where as the claim Number 20 is for Albert Edward Bennett himself, so that there are two separate claims.

THE COURT: That is not what it says. Albert Edward Bennett as custodian for Micael Bennett is number 19 and the amount is $1,100.01. Claim Number 20 is Albert Edward and Murray Evelyn Bennett.

MR. KLEIN: That is correct.

THE COURT: Is the claim for two or one?

MR. KLEIN: As I read it Murray Evelyn Bennett.

THE COURT: But not Albert Edward Bennett?

MR. KLEIN: Itis jointly, Albert and Murray Evelyn Bennett.

THE COURT: Is it correct?

MR. KLEIN: It is correct.

THE COURT: How did it arise? What is the basis for the claim; how did it come into being?

MR. KLEIN: Some 50 shares of Pacific Northern Airlines notdelivered. That is principally the balance of $1,100. That is Number 20. Number 19 is also 50 shares of Paxific Northern Airlines not delivered.

There were some differences based upon the price, the cost at the time of purchase. One was 22 and 1/8 and one was 21 and 5/8.

MR. HOGAN: I think, your Honor, that Mr. Tilney stock record books confirm these figures. We agreed upon them.

MR. TILNEY: That is correct.

MR. HOGAN: The claims are posted by Mr. Tilney and our records and the other records show the same amount except for the number one alonge side which is a question of a dividend.

THE COURT: Turning now to page four, Schedule A,

I direct your attentin to Number 76. How did this claim arise? One is for Billy Rimes and the other is the joint names of Billy and Jeannette Rimes?

MR. Klein: Claim No. 77 represants the cost of 10 shares of Cities Service stock and 10 shares of Union-Camp stock which had not been delivered.

Claim NO. 76 represents the value for 25 shares of Pacific Northern Airlines which had not been delivered. These are the cost values as set forth in the records.

THE COURT: Turning now to page 5 of Schedule A, directing your attention to No. 91, 92, 93, 94, 95 and 96.

MR. KLEIN: Claim No. 91 represents the cash balance that is owing to Royce Harvey Morgan.

Claim No. --

THE COURT: Wait a minute. Part of this is a cash balance?

MR. KLEIN: Owing to them from securities transactions.

THE COURT: The sale of securities is that what you mean?

MR. KLEIN: Yes. Claim No. 92 represents securities that they failed to deliver to them 52 shares of Pacific Northern Airlines common stock which had not been delivered to these people. One represents the cash balance and one

represents the security balance due them.

THE COURT: NO. 93 for Royce Morgan.

MR. KLEIN: This represents the custodial account of Royce Townley Morgan and there was a failure to deliver 16 shards of Pacific Northern Airlines common stock at cost.

THE COURT: Down to No. 94 for PHillip Harvey Morgan.

MR, KLEIN: No. 94 is a custodial account for Phillip Morgan and a failure to deliver 16 shares of Pacific Northern Airlines stock.

THE COURT: And Peggy Morgan?

MR, KLEIN: No. 96 is a custodial account for Mary Ann MOrgan,represents also a failure to deliver of 16 shares of Pacific Northern Airlines stock.

THE COURT: ; Turning to schedule B --

MR. BENISHI: Your Honor, at this point before we continue on to Schedule B, there has been a correction in Scheddle B. With the Court's permission I should like to amend this schedule nunc pro tunc at this time. The only amendment there is a deletion of Claim No. 10 of Louis D. Blum and Company in the amount of $12,720.03 which the receiver is raising some quesiton as to whether or not he agrees with that amount.

The balance of the scheudle is the same as set forth. Here is a copy of the amended schedule.

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLANDT 7-4580

This Schedule B, as indicated, represents claimsof general creditors, that is, creditors who as distinguished from public creditors had various securities transactions with Mr. Tilney or Tilney & Co. These general creditors are commercial claims or claims of commercial creditors and I was not clear from the Court's indication as to whether it wanted a 65 per cent distribution at this time to non-public creditors, commercial creditors or not. We have included them in there but it would be up to the Court to direct a decision as to these credtors at this point.

THE COURT: Before we make any decision as to that I would like to know when these claims arose, how they arose, when they were filed and other relevant data.

The first claim on the page designated schedule B, is for fees for Cadwalader, Wickersham & Taft of $13,435.69.

MR. KELIN: The Claim of Cadwalader, Wickersham as indicated represents legal services rendered. There are invoices attached which agree with the amounts recorded on the books of account. They were rendered during the period of 1966, 1967 and 1968 -- the amount of 1968 has been deleted in proof of claim. It was $1500 and not part of this $13,000 amount. This represents services rendered up through 1967 plus disbursemnts.

MR. BENISCH: Up until the commencement of the

for the benefit of the estate, the receiver or anybody else,

MR. BENISCH: No, these dividends are earmarked and set aside. They will be no problem.

THE COURT: You say they are earmarked?

MR. BENISCH: The total amount is not much more than $1300 but they are all earmarked.

THE COURT: Very well, that doesn't present any problem. The only question I think is that you would have my answer as to whether they should be included in the distribution of the 65 per cent and I would be prepared to say that we can reserve on that.

MR. BENISCH: Exhibit B, your Honor, sets forth approximately 50 customer creditors who have filed claims in amounts, I believe in every case, in excess of the amount shown on the books and if the Court will note in the various columns, there is an amount claimed, the amount per the records of Tilney & Co. and the explanation of the differences in the final column.

Because of these discrepancies we have had to segregate these creditors until such time as we have had an opportunity to contact them, some contacts have already been made, but unless we can clarify the discrepancy and dispose of this in some manner acceptable to the receiver --

THE COURT: I am curious about item No. 3, No. 11

and No. 97. If I read these columns correctly, these records indicate amounts in excess of what is claimed.

MR. BENISCH: The customer is claiming $10,181 cash plus securities, various securities to which he has attached some value. He wants the securities in kind.

THE COURT: Where are the securities?

MR. BENISCH: They are not in existence in the assets of Tilney & Co., they were never in fact purchased. He ordered them, he got a confirmation statement for them, butthey were not ordered.

THE COURT: Cash was paid for them?

MR. BENISCH: Yes.

THE COURT: What is the amount of cash involved?

MR. KLEIN: The amount stated under the "our records" column is $20,411.65.

THE COURT: This is how much -- the cost and $20,000 was paid?

MR. KLEIN: Thatis correct.

THE COURT: Is that also true of Item No. 30?

MR. KLEIN: Thatis correct.

THE COURT: What about No. 19?

MR. KLEIN: Here we have an unusual situation. Boyster had obtained an attachment against Tilney & Co. funds on deposit in the Alaska State Bank. The amount we had

THE COURT: I think we ought to file Exhibit B, it should be made partof the record. Do you have the original there?

MR. KLEIN: The original is back in our office. We used a xerox copy.

THE COURT: I have decided the motion made on behalf of the Tilneys terminating the receivership and I have a memorandum opinion and order which I have signed and which I am filing. You can look at it at your leisure or convenience.

MR. TILNEY: Your Honor, at this time I would like to ask my attorney to submit an affidavit which I have prepared and which I think throws the complete light on this situation. Further, I am going to reserve my position to request your Honor to relieve the receiver for incompetency and failure to perform.

THE COURT: If you have any application to make, please make it on formal papers.

MR. GILHEANY: May Mr. Tilney file this affidavit? He asked me to proffer it to the Court. He wants to make it part of the record.

THE COURT: Is Mr. Tilney representing himself for the purpose? Are you supporting it?

MR. GILHEANY;; Your Honor, no. May I go off the record? I can't. Mr. Tilney wanted me to file this affi-

davit.

THE COURT: I see no reason for receiving it.

MR. GILHEANY: I couldn't in all good conscience, your HOnor.

MR. TILNEY: What about on this --

THE COURT: ; Mr. Tilney, any discussions with your counsel, please have them out of my hearing. I am not concerned with any discussions that you may have with your counsel. That in entirely between you and your lawyer.

Any further business?

MR. ORMSTEN: May I respectfully just ask one question? As I counted in Exhibit B of customers' claims, that is claims in dispute there are, I believe, 15 such claims, one of which Mr. Benisch enlightened us on. That is the Boyster claim, is that not true? We discussed that claim.

YOur Honor, I would like at time time, to find out from the receiver what they intend to do with the Court's approval as to the other claims, any modius operandi been decided on in which you can look hopefully to resolve these claims? How would you approach it?

MR. BENISCH: The receiver has, with respect to it -- some of the machanism has already been set in motion. We have approached this, Mr. Ormsten, on the basis that we or

s tate it now in Court, that it would have to be on and considered on papers and so as not to mislead Mr. Hogan or the Court, it would be given close and careful scrutiny by the Commissions and I would be misinforming all the parties if I made any committment on it.

But I would, in order to address myself specifically to it --

THE COURT: Why don't you prepare the papers at the earliest possible time?

MR. HOGAN: Actually the papers are before the Court but with regard to the hardship figures.

THE COURT: Those papers are entirely related to an interim figure which has already been rejected by the SEC on papers. However, we will have a closer look at this advance -- I suppose that is what it is -- and I sugges that papers will be necessary for the Commission so as to be able to study them and reach an opinion as to whether they object to it. I suggest you do that.

MR. TILNEY: Your Honor, I would like to speak on this subject if I might. I am the defendant.

THE COURT: Mr. Tilney, you and I better have an understanding. You have counsel here representing you and I am not going to hear from you about anything. If there is no further business, the Court stands in recess.

--

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURTHOUSE
FOLEY SQUARE, N.Y. 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 6 1971
S.D. OF N.Y.

SECURITIES AND EXCHANGE COMMISSION : 67 Civil 4676

Plaintiff, :

- against - :

TILNEY & COMPANY
FREDERICK TILNEY : AFFIDAVIT

Defendants. :

STATE OF NEW YORK) ss.:
COUNTY OF NEW YORK)

FRANKLIN D. ORMSTEN, being duly sworn, deposes and says:

1. That he is an attorney employed by the United States Securities and Exchange Commission, the plaintiff in this action.

2. That he submits this Affidavit in support of the Receiver's motion for an Order directing a 65% distribution of all approved claims.

3. The Receivership is now in its fourth year and the necessity for swift and immediate payment to all creditors is apparent and urgent and it is, therefore, respectfully urged that the Court grant the instant motion in all respects.

SECURITIES AND EXCHANGE COMMISSION
Plaintiff

Sworn to before me this
6th day of May, 1971

By: Franklin D. Ormsten

Alan M. Rashes
NOTARY PUBLIC

FRANKLIN D. ORMSTEN

ALAN M. RASHES
NOTARY PUBLIC, STATE OF NEW YORK
No. 41-8496650
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES MARCH 30, 1972

(83)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 6 1971
S. D. OF N. Y.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

67 Civ. 4676

TILNEY & COMPANY,
FREDERICK TILNEY,

Defendants.

EDELSTEIN, D.J.

MEMORANDUM and ORDER

Defendants' motion for an order terminating the receivership in this proceeding, permanently enjoining the further liquidation of receivership assets and fixing final administration expenses is denied.

No basis in law has been presented to this court as justification for the relief sought by defendants' motion. Instead, the memorandum of law submitted in support of this motion dwells exclusively upon the applications for fees submitted many months ago by the Receiver, his counsel, his accountant, and his former co-Receiver. The memorandum simply makes the argument that the amounts requested

by the fee applications should be reduced substantially.

Also, it is to be noted that at a hearing on October 15, 1970, the Securities and Exchange Commission asked that the fee applications not be considered by the court. The defendants explicitly supported the Commission's application and went on to suggest that the receivership and the liquidation of assets should proceed. As a result of the positions taken by the Commission and by the defendants, the Receiver, his counsel and his accountant withdrew their fee applications by notice filed on October 28, 1970.

Finally, at the January 29, 1971, hearing held in connection with defendants' motion, defendants stated that they would undertake promptly to obtain a bond to secure payment of the administration expenses in this receivership proceeding against the event their motion is granted and the assets of the receivership prove inadequate to satisfy completely all valid claims against it. On April 20, 1971, the defendants finally wrote to the court

advising it of the failure of their efforts to obtain a bond.

Accordingly, defendants' motion is denied.

So ordered.

/s/ Lawrence Pierce
U. S. D. J.

Dated: New York, N.Y.
May 6, 1971.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

TILNEY & COMPANY, FREDERICK TILNEY,

Defendants

67 Civ. 4676

ORDER

At New York in said District this 24th day of May, 1971.

Upon the proofs of claim of the creditors hereinafter set out in the annexed Schedule, duly filed with the Receiver, no objections having been filed to the allowance thereof by parties in interest, and it appearing that the said claims have been duly proven and should be allowed, except for the claim of Arnold Bauman, Guardian ad litem of Dorothy C. Tilney, which claim was previously allowed by Judgment of this Court entered the 5th day of February, 1971, and no adverse interest being reported, and upon the oral application of the Securities and Exchange Commission made at a hearing before this Court on the 29th day of January, 1971, and upon affidavits of Franklin D. Ormsten, Esq., of the Securities and Exchange Commission sworn to the 29th day of January, 1971, and Joseph C. Hogan, Receiver, sworn to the 30th day of April, 1971, both duly filed herein, and it appearing that the assets of the Receivership are sufficient to justify a partial distribution of sixty-five per cent of

creditors' claims as allowed, it is

ORDERED, that said claims not previously allowed be and the same hereby are allowed as unsecured claims in the respective sums set opposite the several names in said Schedule, and it is further

ORDERED, that the Receiver is hereby authorized and directed to distribute to the respective creditors an amount equal to sixty-five per cent of all said allowed claims, the amount of said distribution also being set opposite the several names in said Schedule, as and for a first and partial distribution to the creditors of the defendants herein.

Dated: New York, New York
May 24, 1971.

U. S. D. J.

SCHEDULE

Customers' Claims

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
5	Jose M. Romano 1451 Richardson Vista Rd. Anchorage, Alaska	$ 652.50	$ 424.13
7	Horst Beitter 1646 Bartlett Drive Anchorage, Alaska	469.29	305.04
12	Rachel V. Robertson Box 520, Apt. 385 Anchorage, Alaska 99501	668.94	434.81
13	Frances K. and Alfred B. Roney Route 5 Laurel, Mississippi 39440	820.00	533.00
17	Walter L. Clark CMR #2, Box 3002 Elmendorf, AFB, Alaska	102.40	66.56
19	Albert Edward Bennett A/C/F Michael Bennett, Minor 1091 26th Ave. Anchorage, Alaska 99503	1,100.01	715.01
20	Albert Edward and Murray Evelyn Bennett 1091 26th Ave. Anchorage, Alaska 99503	1,132.00	735.80
21	Frank R. and Marie J. Foley Box 66 Mill City, Oregon	2,066.75	1,343.39
22	George G. Brooks 5437 Ketchikan St. El Paso, Texas	1,230.85	800.05
24	Thomas R. Marshall, Jr. 1569 Birchwood St. Anchorage, Alaska	2,531.25	1,645.31

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
25	Kenneth Fox 721 E. 21st St. San Bernardino, California	$ 1,687.25	$ 1,096.71
28	Faye E. and Nancy Troy 433-A Seventh St. Fort Richardson, Alaska 99505	504 00	327.60

- 1 -

29	Charles and Lucille Hardenbrook 14015 15th Ave., N. E. Seattle, Washington	2,587.50	1,681.88
31	Norris H. and Orlean L. Nelson 1136 11th Ave. Anchorage, Alaska	375.00	243.75
33	Allan W. Alvin 4800 Cambridge Way Spenard, Alaska	1,994.88	1,296.67
37	Ralph P. De Vilbiss Star Rt., Box L 1150 Palmer, Alaska	3,780.25	2,457.16
38	James M. and Kathleen P. Balistreri c/o Struthers & Crew Southland Professional Bldg. Hayward, California	817.13	531.12
39	Clement Eugene and Jeanne Mary Gill R. R. 3 Wyoming, Illinois	891.38	579.40
40	John K. Bishop Box 6514 Annex Anchorage, Alaska 99502	1,154.10	750.16

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
41	James J. Goodfellow 206 Bunnell St. Anchorage, Alaska 99504	$ 461.00	$ 299.65
42	Palmer Peterson 1000 E. 10th St. Anchorage, Alaska Mailing Address: Box 4-2133 Spenard, Alaska 99503	190.00	123.50
44	Charles W. Boohar, Jr. 12870 Spencer Ave. Lancaster, Pennsylvania	1,532.00	995.80
45	Kenneth and Ruth E. Rountree 116 E. Manor Ave. Anchorage, Alaska	1,267.75	824.04

47	William H. and Kathleen C. Radentz 9222 N. Dixie Hwy. Radcliff, Kentucky	3,281.94	2,133.26
48	Jean M. Rietze 5901 E. 6th Sp. 51 Anchorage, Alaska 99504	3,954.75	2,570.59
49	Daniel W. Rietze 5901 E. 6th Sp. 51 Anchorage, Alaska 99504	3,521.15	2,288.75
50	Gerald E. and Jacqueline N. Watkins 3623 Norma Drive Garland, Texas 75040	1,010.50	656.82
51	Harry Schiwy 434 E. 10th Ave., Apt. 2 Anchorage, Alaska 99501	1,133.00	736.45

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
53	Joseph P. and Cynthia L. Steiner 5837 Colfax South Minneapolis, Minnesota 55419	$ 905.50	$ 588.57
54	Roland and Ellen Willequer 128 Cascade Drive Belleville, Illinois	900.00	585.00
55	Mr. Jerry L. Winn 325 L Street Anchorage, Alaska 99501	6,001.50	3,900.97
56	John M. and Carol H. Banta Box 367 Oak Ridge, Tennessee	1,972.88	1,282.37
57	Merle E. Williams 2060 20th St., N. W. Cedar Rapids, Iowa 52405	1,341.25	871.81
58	Laurence Saunders Rhodes Apt. #11 336 East Third St. Juneau, Alaska 99801	1,550.69	1,007.95
60	William G. and Bobbi M. Hubbard P.O. Box 4-2015 Anchorage, Alaska	4,010.25	2,606.66

61	William C. and Ida M. Weimer 30-395A Cherry Drive APO Seattle, 98742	574.75	373.59
62	Elmer E. and Sharon S. Potter 1555 Ursa Court Merritt Island, Florida 32952	1,161.13	754.73

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
63	Agnes M. Palik 3744 Peterkin St. Anchorage, Alaska	$ 473.25	$ 307.61
65	John Kethers Box 137 Amenitka, Alaska 99541	2,548.75	1,656.69
67	Edward E. and Joanna M. Hollier Box 366 Kenai, Alaska	2,642.00	1,717.30
68	Vitalis and Waltraud Svazas 49 Foster Circle Fort Rucker, Alabama 36360	1,048.16	681.30
74	Edward O. and Ellen K, Beyers 167B Seven Trails Drive St. Louis, Missouri 63124	569.50	370.17
75	Edward S. E. and Phoebe K. Newbury 5-510 H St., Apt. B Elmendorf AFB, Anchorage, Alaska	1,050.00	682.50
76	Billy S. Rimes A/C/F Angela 712 Bonaventure Road Savannah, Georgia	912.50	593.12
77	Billy S. and Jeannette K. Rimes 712 Bonaventure Road Savannah, Georgia	425.25	276.41
79	Earl E. and Eva B. Allen 8 Alexander Drive Hampton, Virginia 23364	1,190.67	773.94

80	Laverne D. and Thelma L. Buller 425 Kenny Drive Anchorage, Alaska	206.25	134.06

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
82	Andrew H. Eker 7143 De Barr Road Anchorage, Alaska	$ 638.25	$ 414.86
85	Ralph D. Clukey Maplecrest Apts., Rte. 102 Chepachet, Rhode Island	747.00	485.55
86	Barbara Jean Putnam P. O. Box 2424 Anchorage, Alaska	112.50	73.12
87	Clarence L. Jeffers 2001 Lake Otis Park Anchorage, Alaska	17,674.00	11,488.10
91	Royce Harvey and Ann Elizabeth Morgan 2203 Lord Baranof Dr. Anchorage, Alaska	1,001.66	651.08
92	Royce Harvey and Ann Elizabeth Morgan 2203 Lord Baranof Dr. Anchorage, Alaska	985.93	640.85
93	Ann E. Morgan A/C/F Royce Townley Morgan, Minor 2203 Lord Baranof Dr. Anchorage, Alaska	308.33	200.41
94	Ann E. Morgan A/C/F Philip Harvey Morgan, Minor 2203 Lord Baranof Dr. Anchorage, Alaska	308.33	200.41
95	Royce Harvey Morgan A/C/F Peggy Ann Morgan, Minor 2203 Lord Baranof Dr. Anchorage, Alaska	308.33	200.41

96	Royce Harvey Morgan A/C/F Mary Ann Morgan, Minor 2203 Lord Baranof Dr. Anchorage, Alaska	308.33	200.41

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
98	Francis H. and Fidelis F. Grant 3307 Woodland Dr. Anchorage, Alaska 99503	$ 1,985.26	$ 1,290.42
101	Tommy L. Dome 1611 Turpin St. Anchorage, Alaska 99504	113.00	73.45
103	Alfred G. and Patricia Gronnestad 2771 Hollingsdale Lane Dallas, Texas	583.75	379.44
104	Donald A. Nash P.O. Box 4-1912 Anchorage, Alaska 99503	1,398.75	909.19
105	Diane H. Nash P. O. Box 4-1912 Anchorage, Alaska 99503	2,765.00	1,797.25
108	Jerry L. and Sylvia W. Coleman 4217 Torine Court Indianpolis, Indiana	494.63	321.51
113	Franklin E. Campbell 1076 Forrester Way Eugene, Oregon	623.30	405.14
119	T. W. and Jeri S. Mortensen 525 100 N. E. Bellevue, Washington	962.50	625.62
121	Billy J. and Phyllis Walters 2308 Birch St. Blytheville, Arkansas 72315	148.25	96.36
122	Richard Maytum 4424 East 8th Ave. Anchorage, Alaska	354.00	230.10
125	Draga and Robert D. Caffrey 2926 Wentworth Anchorage, Alaska	1,008.25	655.36

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
146	Walter L. Teeuwen CMR #1, Box 1858 APO Seattle, Washington 98742	$ 456.25	$ 296.56
152	Emmet and Gwendolyn Roetman 519 Lynnewood Dr. Anchorage, Alaska 99502	1,007.15	654.65
153	Emmet Roetman A/C/F Kristin 519 Lynnewood Dr. Anchorage, Alaska 99502	200.06	130.04
154	" " A/C/F Russell	200.06	130.04
157	Kenneth Lauster 10816 Saratoga Circle Sun City, Arizona 85351	3.00	1.95
	Total Customers' Claims	$105,811.22	$68,777.21
	General Claims, Frederick Tilney		
15	Incorporated Village of Centre Island Centre Island Oyster Bay, New York	$ 93.17	$ 60.56
16	Frank Giandalone - Highland Farms 776 Yonkers Ave. Yonkers, New York	279.57	181.72
26	Hall & Casey National Bank Bldg. Oyster Bay, New York 11771	670.00	435.50
27	Lewis Oil Co. Inc. 65 Shore Rd. Port Washington, New York 11050	1,129.98	734.49
70	Hotine Bros. Inc. 1- First Ave. Bayville, New York 11709	327.42	212.82

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
71	No. Shore Laundries, Inc. D/B/A Superior Hand Laundry 300 Audrey Ave. Oyster Bay, New York	$ 70.64	$ 45.92
83	David R. Strecker Bayville Hardware 16 Ludlam Ave. Bayville, New York	126.97	82.53
100	Irene Hayes, Wadley & Smythe, Inc. 420 Park Ave. New York, New York	81.55	53.01
118	Joseph Parente Village Cleaners 290 Bayville Ave. Bayville, New York	411.85	267.70
129	Arnold Bauman, Guardian ad litem of Dorothy C. Tilney 45 Rockefeller Plaza New York, New York (This claim has heretofore been approved in the above amount by Judgment of this Court entered February 5, 1971)	6,231.00	4,050.15
145	Park East Fish Market Inc. 38 Daniel Glen Cove, New York	77.50	50.37
150	E. B. Meyrowitz, Inc. 520 Fifth Ave. New York, New York 10036	107.50	69.87
151	Arthur W. Pearce, Jr. St. Anthony Club 16 East 64th St. New York, New York 10021	94.50	61.42

SCHEDULE
(Continued)

No.	Name and Address	Amount of Claim Allowed	Amount of Distribution
155	Dr. James Boyd Beaver Drive Locust Valley, New York	$ 80.00	$ 52.00
156	Coombs & Oliver Inc. 39 McCouns Lane Oyster Bay, New York 11771	109.32	71.06
	Total General Claims, Frederick Tilney	$9,890.97	$6,429.12

RECAPITULATION

Customers' Claims	$105,811.22	$68,777.21
General Claims, Frederick Tilney	9,890.97	6,429.12
Total	$115,702.19	$75,206.33

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[1]

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

vs. : 67 Civil 4676

:

TILNEY & COMPANY and
FREDERICK TILNEY. :

Defendants. :

Before:

HON. DAVID N. EDELSTEIN,

District Judge.

New York, June 28, 1971,
10.00 a.m.

APPEARANCES:

FRANKLIN ORMSTEN, ESQ.,
Attorney, Securities and
Exchange Commission.

WAGNER, QUILLINAN & TENNANT, ESQS.,
Attorneys for Receivers,
Robert F. Wagner, Esq. and
Robert G. Benisch, Esq., of Counsel.

JOSEPH C. HOGAN, ESQ.,
Receiver.

CADWALADER, WICKERSHAM & TAFT, ESQS.,
Attorneys for Defendants
Tilney & Company and
Frederick Tilney,
Terence F. Gilheany, Esq., of Counsel.

SAXE, BACON & BOLAN, ESQS.,
Attorneys for Dorothy Tilney,
Thomas Bolan, Esq., of Counsel.

Also Present:

Mr. Frederick Tilney.

- - -

THE CLERK: SEC vs. Tilney.

Gentlemen, are you ready to proceed?

(Mr. Gilheany hands papers to Court.)

THE COURT: Before we proceed, I should like the record to reflect that I have just been handed up an affidavit in opposition to the receiver's application to punish for contempt.

Will you bear with me and give me an opportunity to read this affidavit.

(Court Examines.)

THE COURT: Are you ready to proceed now,

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gentlemen?

MR. BENISCH: Your Honor, at the outset I would like to submit to the Court an affidavit of service indicating service of the Court's order to show cause and the petition which was served in accodance with the directions contained in the order to show cause. (handing to Court).

Your Honor, as the Court, I believe, has been aware over the course of this receivership, Mr. Hogan, and informally Mr. Harris, were met practically at the very outset of this proceeding with a somewhat recalcitrant position by the particular individual involved, Mr. Frederick Tilney.

I believe the Court has been advised over the period of the receivership in the various hearings of instances wherein Mr. Tilney or Mrs. Tilney has committed certain acts which the receiver deemed was or constituted an interference with his duties as a receiver in this matter.

Acting upon those complaints, if you will, by the receiver, the Court has several times admonished the Tilneys against communicating with creditors or performing or committing certain acts which would interfere with or hinder the administration of his receiver-

snip.

Over the past few months it has comt to the attention of the receiver, either directly or indirectly, by copies of correspondence of the grapevine, if you will, coming back to the receiver that the Tilneys have apparently undertaken a course row with respect to the administration of this receivership which is directly contrary to the provisions of the Court's order and to the functions of the receiver.

The Tilneys have chosen to communicate with creditors and to advise them of developments; to supply them with information or misinformation, as the case may be, and to more or less paint a picture for the creditors as to what has been going on over the three and a half years that this receivership has been in existence, and I submit, your Honor, that the picture which the Tilneys have painted is not an accurate picture -- not at all.

But be that as it may, copies of various correspondence and communications from the Tilneys are annexed to the petition herein.

I think it needs no particular recollection that the Court has admonished in the past both Mr. and Mrs. Tilney against communicating or sending out notices,

such as the ones that are attached as exhibits to this petition.

As a brief reading of the affidavits in opposition to this application show, apparently the Tilneys, or Mrs. Tilney feels, that she is entitled by virtue of her assumed position as a creditor of the receivership, to take matters into her own hands and to communicate with her co-creditors, et cetera.

I submit, your Honor, that Mrs. Tilney is no longer a creditor of this receivership. Her claims in this receivership ware expunged by order of this Court, if in fact she ever was a valid creditor.

With respect to the contention that the receiver, or, if you will, that the Tilneys are only performing communication responsibilities, that is, with creditors which the receivership perform, I submit that this is a question for the receiver to decide and not the principals involved here as to whether or not the creditors are receiving enough information, accurate information, of anything of that sort.

It does not entitle them, even assuming that pernaps a weekly letter does not go out from the receivership, or correspondence periodically, that the principals involved may then take matters into their own hands and

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undertake activities with respect to this receivership.

As a result of these acts, and I will not burden the Court or the record with the recitation of other acts which are not referred to in the petition; there are other acts -- we have specifically complained of other interferences in the past to the Court as to the Tilneys.

But as a result of the developments of late it was the receivers' opinion that should this be allowed to continue it will do grave damage to the winding up of this receivership, that we cannot proceed with liquidating the assets of this estate and in turn refute and reply to communications being sent out by the principals in an attempt to keep the creditors satisfied or up to date. These creditors are receiving information from the Tilneys which is not in fact true.

For example, they have informed the creditors several times that a suit has been instituted against the receivers for misadministration, et cetera.

To my knowledge, there has been no commencement of any suit against the receivers. In fact, one letter goes so far as to advise creditors that they will share freely in any recovery which is had against the receiver

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as a result of his misadministration of his receivership.

There has been no action instituted against the receivers, and I submit that to inform the creditors, or to intimate that such an act has been commenced both undermines the receivers' position; it is undermining the position of this Court and the SEC with respect to the administration of this receivership estate.

As a result, your Honor, the receiver felt compelled to now seek the assistance of the Court in putting a stop to these activities. And should the Tilneys continue their activities, their half-truths, what I call insidious activities with respect to the administration of this estate, I submit that it will be very difficult, if not impossible, to wind up the receivership of this estate in the near future, because we are not only faced with creditors here but we are faced with activities of parties, both individual and corporate, which hold what is belonging to the receivership and which the Tilneys have gone to great lengths to advise these people not to turn over the assets to the receivership because it was in the Tilneys' estimate not needed to wind up the receivership estate.

The Tilneys are contending that there is enough

cash in the estate and "Don't turn over the assets, don't turn over the proceeds of the sale as directed by the receiver."

As a result -- and I am referring specifically to the Long Island National Bank situation where over $60,000 of the receivership assets has been held throughout the entire period of this receivership by the Long Island National Bank, I submit for no other reason than to accommodate Mr. Tilney. And I say to accommodate Mr. Tilney because he has, in effect, threatened to hold the bank responsible for any funds which the governmental statistical corporation may assign, acting pursuant to the receivers' instructions.

So we are here today, your Honor, to seek to engage the Court's assistance in putting a stop to these activities.

I think they are certainly contrary to the order of this Court, which appointed the receivers; that they are contrary to the entire concept of an equity receivership, that is, that receivership and the administration thereof is to be run by the receiver and not by the principals who are in receivership.

They are also contrary in reference to the acts of the principles, to the direct admonitions of this

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Court throughout the period of this receivership.

I have quoted language of the Court from the record in my petition wherein both Tilneys, that is, Mr. and Mrs. Tilney, were admonished not to communicate with the creditors.

Subsequent to that admonition, your Honor will see the exhibits which are annexed to the petition, and those are only a portion of what information has filtered back to the receiver.

I submit they are only a portion of the acts of interference which the Tilneys have been engaging in, to a great extent lately, and to a lesser extent throughout the entire course of this receivership.

So I would respectfully request the Court to punish the parties involved, that is, Mr. and Mrs. Tilney, for contempt of Court.

MR. GILHEANY: May it please the Court, in the memorandum of law which Mr. Benisch served upon the parties this morning, he indicates that this is an application to punish for criminal rather than civil contempt.

This casts a somewhat different light on the matter. Mr. Bolan suggested before the hearing that perhaps no such determination of an application could

any reasonable doubt that Mr. Tilney wilfully contravened the directions of this Court.

Mr. Bolan, of course, will speak for Mrs. Tilney.

The receiver has tried to lump the Tilneys together. I do not think that that can be done on an application of this sort, but speaking to the situation generally, and particularly to the question of intent, your Honor, the fact does remain that this receivership is over three and a half years old. It is a relatively small receivership in terms of the principal amount of the claims involved and the number of claims involved. Far larger receiverships -- and I just recently read the decision of the Court in Charles Plohn & Company -- have been wrapped up as in the Plohn case, I think, between August of last year and March and April of this year.

At the outset, before the differences arose between the receivers and the Tilneys, which we contend the Tilneys were perfectly justified in feeling that they were not being well served, as witness the Waddington Bank matter with Mr. Harris, but at the outset of the receivership the receivers received the utmost cooperation from Mr. Tilney, and Mr. Tilney has always been ready to try to close this thing up fast and give the creditors 100 cents on the dollar, with interest.

pay out 65 per cent.

As an example of how lax the receiver has been, when it came time to pay out money they did not even have the correct addresses for approximately half the creditors. Mrs. Tilney had to supply those to the receivers directly, the correct addresses of those creditors. That is not something which is going to delay the estate, furnishing this information, information which the receivers should have had.

This has helped to speed up payment to the creditors.

I have not heard any word from Mr. Benisch as to how Mrs. Tilney's contacting the creditors could conceivably delay the termination of the estate. Nothing she has done or said to those creditors has in any way delayed the estate.

The receivers here never answer any letters from creditors, whether inspired by Mrs. Tilney or whether on their own.

The record is replete with unanswered letters by creditors.

They just have not kept track of the creditors. When they did come into court to have the 65 per cent paid, your Honor questioned them on a number of events -- I was

procedures outlined in Rule 42(B) of the Federal Rules of Criminal Procedure, and the Court will appoint the United States Attorney or an assistant in his office and will request him to prepare an order to show cause referring to the specific charges made, and indicate that what is charged is criminal contempt.

The notice will indicate the time and place of trial, and the defendants will be given sufficient time to prepare for trial.

If there is no further business before this Court, this Court stands adjourned.

- - -

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLAND 7-4580

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

- against - :

TILNEY & COMPANY, :
FREDERICK TILNEY

Defendants. :

- -x

AFFIDAVIT

IN OPPOSITION TO RECEIVER'S APPLICATION TO PUNISH FOR CONTEMPT

67 Civil 4676

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

FREDERICK TILNEY, being duly sworn, says:

1. I am the individual defendant in this action. I submit this Affidavit in opposition to the Petition of counsel for the Receiver seeking to punish me and my wife, Dorothy M. Tilney, for contempt.

2. In attempting to have the Court take the very grave step of punishing me for contempt, the Receiver's counsel in his Petition alleges only two specific acts on my part. The first is the sending of the telegram attached to his Petition as Exhibit C. Mr. Benisch indicates that this telegram constituted an attempt on my part to interfere with the Receiver's negotiations with Mr. Whitmore regarding stock of Spenard Utilities, Inc. (now Central Alaska Utilities). This is untrue. In keeping with the Receiver's consistent practice of not advising persons interested in the receivership of his actions, I did not even know of the proposed sale of the Central Alaska Utilities stock to Mr. Whitmore until I read Paragraph 8 of Mr. Benisch's Petition. The telegram annexed to the Petition as Exhibit C was sent in connection with $7,000

removed from Tilney & Company's account without order of this Court after the Securities and Exchange Commission shut down Tilney & Company on August 9, 1967.

3. The second act of mine specifically identified by Mr. Benisch was my communication with the Long Island National Bank regarding the proposed sale of the $95,000 Alaska State Development Corporation Note at a 20%

discount. Mr. Benisch seeks to imply that this communication constituted interference on my part which prevented the Receiver from selling off the Alaska State Development Corporation Note. What Mr. Benisch conveniently omits to mention is:

(A) Since the Note is owned by Governmental Statistical Corporation, and since I was acting in my capacity as an officer of that corporation to preserve the value of an asset of that corporation, and since neither Governmental Statistical Corporation nor I as an officer of Governmental Statistical Corporation are direct parties to this action none of my activities in that connection can properly be made the basis for finding me in contempt of any order of this Court in this action. Any failure to act as an officer and director would have left me subject to suit by stockholders and noteholders of the corporation.

(B) The position taken by the Long Island National Bank was vindicated by the Nassau County Supreme Court (Derounian, J.) which denied the Receiver's application for an order directing the bank to turn the Note over to the Nassau County Sheriff for sale in partial satisfaction of a judgment obtained by the Receiver against Governmental Statistical Corpor-

ation. Among other things, Judge Derounian found that the Note was not even marketable.

(C) If the Note were sold on the terms proposed by the Receiver, the receivership estate would ultimately suffer a loss of between $20,000 and $30,000, since the Note will be paid in full.

4. These are the only acts of mine asserted by the Receiver's counsel as grounds for punishing me for contempt. I respectfully submit that these acts do <u>not</u> constitute violation by me of any directive of this Court and that the imposition of the drastic sanction of contempt is utterly unwarranted.

5. Much of the rest of Mr. Benisch's Petition consists of completely generalized and unsubstantiated statements (for example, Paragraph 7 of the Petition). The few remaining specific acts that have been alleged were performed by Mrs. Tilney in her capacity as a creditor

of the receivership estate. A brief review of the facts of this receivership may serve to indicate both the justification for Mrs. Tilney's acts and the motive underlying this attempt by the Receiver to gag both Mrs. Tilney and myself.

6. This receivership involves only about 145 valid and unduplicated claims which total only $263,871.87. Yet the receivership has dragged on for over 3 1/2 years. The Receiver has cash assets totaling about $430,000 (see Exhibit I). Yet the receivership continues, with far more effort being expended in unnecessary attempts at further liquidation of receivership assets (such as the Alaska State Development Corporation Note)

than in undertaking to pay off creditors' claims. Why? Because the Receiver (and ex-receiver, who resigned under fire after being caught engaged in what the Securities and Exchange Commission termed a "tainted" transaction) and the Receiver's attorneys and accountants are, I believe, preparing to claim fees and administrative expenses roughly equivalent to the total principal amount of all claims against the receivership estate. This receivership has been unduly prolonged for the purpose of assuring that there is enough money in the receivership estate to pay these exorbitant claims. There has been sharp criticism of the administration of the receivership, unsolicited by either Mrs. Tilney or me (see Exhibits II, III and IV). There has been similar criticism from at least one regional office of the Securities and Exchange Commission -- the Plaintiff in this action (see Exhibit V). Mrs. Tilney as a creditor peculiarly well situated to advise her fellow creditors of developments -- in the interests of expediting rather than delaying these proceedings -- should certainly not be punished for her actions.

7. The valid claims referred to in Paragraph 6 preceding do not include any claims of my family and affiliated companies where applications to take property including my home were requested as early as August 6, 1968 and formally presented to Court on December 19, 1969. These claims would not have required any cash distribution if the applications had been granted as was done in the case of one other creditor and if acted favorably upon

would have resulted in closing the receivership early in 1969 with full

payment to all other creditors in cash.

8. For the foregoing reasons, I respectfully request that the Receiver's Petition be in all respects denied.

/S/ Frederick Tilney
Frederick Tilney

Sworn to before me this

28 day of June, 1971.

Notary Public

TILNEY & COMPANY AND FREDERICK TILNEY

STATEMENT

June 17, 1971

EXHIBIT I

ASSETS*

Schedule			
A	Cash or equivalent presently in hand	$430,382.42	
B	Securities on hand	80,100.00	**
C	Recoveries (see also Schedule T)	11,513.41	
D	Surcharge, net of cost	400,000.00	
		$921,995.83	

* EXCLUDES ALL PROPERTY NOT SPECIFICALLY LISTED IN SCHEDULES A, B, C AND D.

** Subject to application of family and affiliated companies.

LIABILITIES

	Claims Approved May 6, 1971	No.	Amount
E	Customers' claims versus Tilney & Company	74	$105,811.22
F	Commercial creditors versus Tilney & Company	0	-0-
G	Claims versus Frederick Tilney, personal	15	9,890.97
		89	$115,702.19
	Claims Filed, Ready for Approval		
H	Customers versus Tilney & Company	16	69,725.78
I	Commercial versus Tilney & Company	10	54,333.19
J	Personal versus Frederick Tilney	2	8,829.44
K	Priority Claims	3	2,921.55
		31	$135,809.96
	Claims Mailed Out but not yet Returned		
L	Customers versus Tilney & Company	6	775.65
M	Commercial creditors versus Tilney & Company	3	8,809.48
N	Personal versus Frederick Tilney	1	2,542.43
O	Priority claims	1	45.80
		11	$12,263.36
	Alleged Claims		
P	Customers versus Tilney & Company	13	96.41
Q	Commercial Creditors versus Tilney & Company	None	None
R	Personal versus Frederick Tilney	None	None
S	Priority	None	None
		13	$96.41

Schedule		No.	Amount
	Claims in Dispute (See also Schedule C)		
T	Commercial or financial versus Tilney & Co.; amount of claims total $6,205.10	2	$ -0-
	MAXIMUM CASH REQUIRED BY RECEIVER TO PAY ALL CLAIMS AT PAR	146	$263,871.87
	65% REQUIRED WITH PRIORITY CLAIMS @ 100%	--	$173,205.30
U	Administrative expenses incurred by receiver	--	15,635.05
	TOTAL POTENTIAL CLAIMS AND ADMINISTRATIVE EXPENSES		$279,510.92
	TOTAL CLAIMS AT 65% EXCEPT FOR PRIORITY CLAIMS AND ADMINISTRATIVE EXPENSES INCURRED BY RECEIVER		$188,842.95
	No Cash Required		
V	Family and affiliated company claims to settle by applications to take property	14	$355,220.35 (1)
	TOTAL	160	$634,728.47

(1) These liabilities are covered by specific applications to take property not listed among the assets of the receivership in Schedules A, B, C and D.

REAL ESTATE TAXES

The value of real property of Frederick Tilney and affiliated companies is substantial. During the course of the receivership while Mr. Tilney's earning power was curtailed and the operations of Governmental Statistical Corporation were slowed due to the stipulation insisted on by I. Alan Harris as receiver early in 1968, real property taxes have accumulated to the total of $35,440.42. This figure would include all taxes up to and including taxes due for the next fiscal year 1971-72 and for the calendar year 1971 on the various properties.

SCHEDULE A

AVAILABLE CASH OR EQUIVALENT

This schedule was prepared on the basis of known cash and investments on December 31, 1970 with estimated accrued interest on various types of investments added to July 15, 1971, the earliest practical date when a 65% distribution to approved creditors could be made. Government securities are carried at market as of June 17, 1971 but with interest accrued to July 15. Cash items received since December 31, 1970 are assumed to be invested at 6% per annum. Since the 65% distribution will leave over $250,000 invested by the end of 1971 cash will have increased by approximately $7,000 over the projected figure below.

(1)	Cash, December 31, 1970, estimated	$11,500
(2)	Sale of Matanuska Valley Bank stock, 947.8 shares	17,972.66 *
(3)	Sale of Matanuska Valley Bank stock, 53 shares	948.12 *
(4)	Sale of City Commerce debentures, par $58,844	41,833.00 **
(5)	Sale of Alaska Property, net sale	26,674.52
(6)	Income, $270,000 U.S. Treasury bonds, 4%, 8/15/71	5,400.00
(7)	Income, $ 30,000 U.S. Treasury bonds, 4 1/4%, 5/15/74	637.50
(8)	9 months' interest on (1), (2), (3) & (4) @ 6% averaged	3,254.12
(9)	Accrued interest on (5) @ 6%	200.00
10)	Accrued interest on (6) & (7) to 7/15/71	4,800.00
11)	Cash surrender value, partners' life insurance, net	13,500.00
12)	Dividend, home mortgage	2,500.00
13)	Dividend on miscellaneous items to July 15	600.00
14)	Offer to purchase securities	950.00
15)	Recovery on cost of Waddington sale with interest, Harris-Studley	5,500.00
16)	$270,000 U.S. Treasuries, 4%, 8/15/71 100 1/8 market	270,337.50
17)	$ 30,000 U.S. Treasuries, 4 1/4%, 5/15/74, 94 1/4 market	28,275.00
		$435,382.42
	Less allowance for expenditures July - December 1971	5,000.00
		$430,382.42

* Real value now $38,000; loss of $20,000

** Real value now $60,000; loss of $18,000

SCHEDULE B

SECURITIES IN HANDS OF RECEIVER

The receiver still holds certain securities in his hands which require no legal action to sell other than provisions of U.S. Code, Chapter 127, Sections 2001 and 2004. These securities are obviously in excess of needs.

6,709 shares	Central Alaska Utilities	$54,000
380 shares	Long Island Commercial Review	26,000
	Miscellaneous	100
		$80,100

SCHEDULE C

RECOVERIES

The receiver should have made recoveries on the items indicated. Two represent an offset against a liability.

Alaska State Bank	$ 7,000.00	*
Holem	618.75	
Rice	2,550.97	
Sassara	4,400.00	
	$14,568.62	
Less Francis I. duPont -- Claim #110	3,055.21	
Net	$11,513.41	

SCHEDULE D

SURCHARGE

Two creditors have been joined by others in instituting an action against the receiver and ex-receiver as well as their counsel and accountants for $500,000. The surcharge action was entered on January 29, 1971; continued delay of those in charge of the estate is causing further damage. Anticipated recovery on this surcharge action net of legal expenses and out-of-pocket items by the Creditors Committee should produce $400,000.

* * * *

* The Alaska State Bank after August 9, 1967 permitted the funds of Tilney & Company, both customer and regular accounts, to be garnisheed although the bank was on notice immediately after the firm was closed down that all funds had to be frozen. The result of the garnishee was to make the Alaska State Bank and two other creditors preferred creditors to the detriment of the impending receivership.

SCHEDULE E

CUSTOMER CREDITORS OF TILNEY & COMPANY APPROVED FOR PAYMENT ON MAY 6, 1971

	No.	Amount
ustomer claims approved	74	$105,811.22

SCHEDULE F

COMMERCIAL CREDITORS OF TILNEY & COMPANY APPROVED FOR PAYMENT ON MAY 6, 1971

ommercial creditors of Tilney & Company approved	0	0

SCHEDULE G

PERSONAL CREDITORS OF FREDERICK TILNEY APPROVED FOR PAYMENT ON MAY 6, 1971-

ersonal creditors of F. Tilney approved	15	9,890.97 *

* Includes guardian ad litem'c claim for Dorothy C. Tilney which actually should have been charged against Tilney & Company. This item has been deleted in connection with the preparation of Schedule V.

SCHEDULE H

CUSTOMER CREDITOR CLAIMS FILED, AWAITING APPROVAL

inal laim #		Superseded Claim #	Per Records	To Be Approved
18	Boyster	--	$ 4,603.20	$ -- (1)
73	Norton	--	40.44	190.75
144	Edwards	--	669.74	669.74
159	Lanzaro	11 & 97	20,411.65	20,978.15
160	Carawan	59	4,248.29	4,248.29
161	Pugh	72	4,615.37	4,647.37
162	Prewitt	8	5,365.95	5,305.55
164	Woeltz	69	1,704.50	1,704.50
165	Swiderski	106	989.25	1,019.25
166	Horton	117	273.04	273.04
167	Horton as custodian	117	311.68	311.68
168	Van Eykeren	--	1,257.25	1,500.88
170	Malone	64	395.75	390.80
*	Talley	4	15,761.40	15,761.40
*	Meiners	30	2.440.00	2,440.00
*	Walther	51	10,243.75	10,284.38
			$73,331.26	$69,725.78

(1) Paid through the sale of Anchorage property; deducted $5,402.42, leaving net check on sale of Anchorage property of $26,674.52.

* Claims were submitted directly to Wagner, Quillinan & Tennant rather than to Greidinger, Hoffberg & Oberfest and claim numbers have not yet been assigned.

SCHEDULE I

COMMERCIAL CREDITORS OF TILNEY & COMPANY, CLAIMS FILED, AWAITING APPROVAL

Final Claim #		Superseded Claim #	Per Records	To be Approved
1	Blue List Publishing	--	$ --	$ 370.44
9	Cadwalader, Wickersham & Taft	--	13,435.69	13,435.69
10	Louis D. Blum & Company	--	11,522.03	12,272.03
36	Remington Rand	--	288.23	288.23
43	Alaska Communications	--	10,956.07	10,956.07
46	Chase Office Supplies	--	17.12	97.31
78	Dun & Bradstreet	--	150.00	150.00
90	American Telephone & Telegraph	--	3,765.88	3,765.88
99	First National City Bank	--	10,698.49	10,698.49
163	Bridge Auto	32	299.05	299.05
169	L.I. Commercial Review		2,438.28	2,000.00
			$53,570.84	$54,333.19

SCHEDULE J

PERSONAL CREDITORS OF FREDERICK TILNEY, CLAIMS FILED, AWAITING APPROVAL

3	A. Mirabilto	--	$ 2,270.96	$2,279.96
6	Hobby Market	--	6,558.48	6,558.48
			$ 8,829.44	$8,829.44

SCHEDULE K

PRIORITY CLAIMS FILED, AWAITING APPROVAL

84	New York State Tax Commission (Tilney & Co.)	--	$ 203.20	$ 207.11
148	New York State Department of Labor (Tilney & Co. and F. Tilney)	107	83.90	345.60
158	Internal Revenue Service (Tilney & Co.)	81	2,131.49	2,368.84
			$ 2,418.59	$2,921.55

SCHEDULE L

CLAIMS FURNISHED CUSTOMER CREDITORS OF TILNEY & COMPANY IN PROPER AMOUNT FOR APPROVAL WHEN RECEIVED

Item #		Per Records	To be Approved
2	Joseph Andries	$ 31.64	$ 21.64
3	Gary William Archer	180.63	195.00
4	Gary William and Joan Archer	234.81	253.38
6	Aubrey Bills	172.50	112.00
12	Perry L. Dedrick	54.19	77.63
29	H. Russell Pace	68.75	116.00
		$742.52	$775.65

SCHEDULE M

CLAIMS FURNISHED COMMERCIAL CREDITORS OF TILNEY & COMPANY IN PROPER ADJUSTED AMOUNT FOR APPROVAL WHEN RETURNED

Claim #	Item #			
--	42	Nordam Cleaners	$ 120.00	$ 120.00
147*	--	Edwin L. Tatro & Co.	2,951.00	2,951.00
102*	--	Irving Trust Company	5,828.48	5,828.48
			$8,899.48	$8,899.48

SCHEDULE N

PERSONAL CLAIMS AGAINST FREDERICK TILNEY FURNISHED, READY FOR APPROVAL IN CORRECT AMOUNT WHEN RETURNED

112*	--	Miller, Montgomery, Spalding & Sogi	$2,542.43	$2,542.43

SCHEDULE O

PRIORITY CLAIMS FURNISHED CREDITORS FOR APPROVAL WHEN RETURNED

126/7*	--	New York City Occupancy	$45.80	$45.80

- - - - -

* Original claim numbers; new numbers to be assigned when received.

SCHEDULE P

ALLEGED CUSTOMER CLAIMS VERSUS TILNEY & COMPANY, ADMITTED

Item		
7	Bissell	$ .80
8	Bowman	2.50
11	Cowan	7,80
15	Helle	30.00
19	Janovitz, George & Hazel	3.75
20	Koenig	4.50
22	MacDonald	6.25
24	Monroe	12.00
32	Jerry Smith	2.25
33	William Arthur & Thetus Smith	2.50
34	Tingcang	8.75
36	Sgt.Raymond Walker	10.63
26	Musick	4.68
		$96.41

SCHEDULE Q

ALLEGED COMMERCIAL CLAIMS AGAINST TILNEY & COMPANY, ADMITTED

N O N E

SCHEDULE R

ALLEGED PERSONAL CLAIMS AGAINST FREDERICK TILNEY, ADMITTED

N O N E

SCHEDULE S

ALLEGED PRIORITY CLAIMS, ADMITTED

N O N E

SCHEDULE T

DISPUTED CLAIMS FILED, NO PAYMENT APPEARS INDICATED

Claim #		Book Records	Possible Claim
110	Francis I. duPont	$3,055.21	-0-
115	Franklin National Bank	3,149.89	-0-
		$6,205.10	-0-

SCHEDULE U

ACCOUNTS PAYABLE BY RECEIVER DUE OTHER PROFESSIONAL PERSONS AND FIRMS AS WELL AS ADMINISTRATIVE RENT EXPENSE AT ONE WALL STREET

Schroeder & Powell	$ 400.00
Burr, Pease & Kurtz	400.00
Carlino, Pearsall & Soviero	271.90
Arnold Bauman	5,000.00
Louis D. Blum & Company	6,825.00
Dorothy M. Tilney	1,200.00
Irving Trust Company	1,538.15
	$15,635.05

SCHEDULE V

FAMILY AND AFFILIATED COMPANY CLAIMS AGAINST TILNEY & COMPANY

Claim #	Claimant	Filed Claim
128	Bauman, for F. Tilney, Jr.	$ 8,090.26
129	Bauman, for Dorothy C. Tilney	1,797.41 *
130	Bauman, for Kathleen Tilney	20,911.41
132	Tilney, Estate of Camilla	680.00
133	Tilney, D., Guardian for Kathleen	435.00
134	Tilney, Dorothy M.	2,040.00
135	Tilney, Dorothy M., National Bank of Alaska	1,550.00
136	Tilney & Company, Inc.	19,053.99
137	Tilney & Company, Inc., Alaska State Bank	11,252.00
138	Tilney & Company, Marine Midland Tinker	16,284.72
139	Tilney, Dorothy, Limited Partner	2,500.00
		$84,594.79

* Reduced by $6,231.00 payment authorized May 6, 1971.

FAMILY AND AFFILIATED COMPANY CLAIMS AGAINST FREDERICK TILNEY

128	Bauman, for F. Tilney, Jr.	$22,780.00
129	Bauman, for Dorothy C. Tilney	37,548.66
130	Bauman, for Kathleen G. Tilney	45,993.66
141	Tilney, Dorothy M.	126,050.00
	Tilney, Dorothy M., Debts of F. Tilney and Tilney & Company paid, supersedes #142	3,603.24
143	Tilney, Dorothy M., legal guardian for Kathleen, Dorothy C. and Frederick Tilney, Jr. (interest)	34,650.00
		$270,625.50
	Final Total	$355,220.35

Some of the preceding claims have been expunged by order. Others have not been. Any claims so expunged are for the purpose of the receivership only. It should be noted that Claim #142 is being superseded by a new claim in the above indicated amount as of this date.

All of the claims regarding family and affiliated company claims have been made subject of applications to take property not required by the receiver to settle the estate.

EXHIBIT II

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

TILNEY & COMPANY,
FREDERICK TILNEY

Defendants.

AFFIDAVIT

67 Civil 4676

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

DR. JOHN L. MARA, being duly sworn, deposes and says:

I reside at 72 Todd Court, Huntington Station, New York.

1. That on May 22, 1971, I signed a letter addressed to Greidinger, Hoffberg & Oberfest, 888 Seventh Avenue, New York, N. Y. 10019, regarding the receivership of Tilney & Company and Frederick Tilney.

2. That I indicated in said letter I had received from Mrs. Tilney a total of $1,293.96 in full payment of my claim of $1,080.74 against the receiver of Tilney & Company and Frederick Tilney, numbered 109 in the files of the receiver.

3. That I had the letter prepared based on my knowledge of what was transpiring in the receivership due to my contact with Mr. Tilney in connection with continued care of his pets and otherwise.

4. Since Mr. Tilney was anxious to correct the liability record, I requested Mrs. Tilney to have the letter prepared for me so as to expedite its forwarding to Greidinger, Hoffberg & Oberfest.

5. Mr. Tilney informed me that he had contacted Greidinger, Hoffberg & Oberfest sometime after I had mailed my letter of May 22, 1971, to them and found that the letter had not been received. I, therefore, asked Mrs. Tilney to have a copy prepared for my signature which she did and brought to me in conjunction with a professional visit.

6. I have known Mr. Tilney for approximately fifteen years and have discussed numerous matters of mutual interest with him in connection with municipal problems in which I have taken a keen interest as does he.

7. Mr. Tilney's personal problems are known to me and I have discussed them with both himself and Mrs. Tilney and have reviewed material regarding their problem.

Sworn to before me this
26th day of June, 1971.
/S/ Sidney Silverman
Notary Public

/S/ John L. Mara
John L. Mara

[25]

EXHIBIT III

Clell L. Prewitt
1109 W. Peebly Dr.
Midwest City, OK 73110
May 11, 1970

Robert G. Benish
Berman, Paley, Goldstein & Berman
10 E. 40th St.
New York, N. Y. 10016

RE: Tilney & Company

Gentlemen:

Enclosed is a change of address card.

The last word I have received from you was a letter dated Aug. 8, 1969, in which you stated you were attempting to liquidate certain blocks of bank stocks owned by Tilney & Co., and that you hoped they would provide needed cash to pay administration expenses and all claims of creditors in their full amount.

I submit that at this rate there will be nothing left to distribute to creditors after administration expenses have been payed, for it is becoming obvious that this receivership will drag on as long as the money holds out, and then be conveniently closed, with the creditors left holding the bag, and the receivers holding the money.

I vigorously recommend that the Securities and Exchange Commission take a long hard look at this situation to see why it has taken the receivers approximately 3 1/2 years to fail to accomplish the things they were speaking of having accomplished in the near future over 3 years ago.

I would appreciate a prompt reply from both the receivers and the Securities and Exchange Commission concerning the progress made and an estimated distribution date.

Sincerely,

(S) Clell L. Prewitt

cy to: Mr. Franklin Ormsten
Securities and Exchange Commission

[26]

C
O
P
Y

EXHIBIT IV

April 12, 1971
Box 102
Chugiak, Alaska

Re-Tilney and Company

Dear Sir:

Don't you think it is time we heard from you or does a customer of Tilney have to enter suit in order to hear from Government appointed receivers? Don't you notify the other creditors or do you just hold on the money until the fees eat it all up. I am sure that you have had long enough by this time to liquidate half the United States. Will you please let us know what you are going to do. We haven't heard from you in years.

We have only heard from Mrs. Tilney who seems to be the only concerned person in the whole deal. Obviously the Security Exchange Commission and the Court are all lawyers and are not concerned with creditors. I have around $5,000.00 worth of cash and stocks (at cost) there and I have not heard a word from you.

Please waste a card, it shouldn't add much to your fees, take it out of my share but please let me know.

Thank you,

(/S/ James R. Carawan)

Copies to:
Wagner, Quillinan & Tennant
Security Exchange Comm.
Alaska State Attorney

James R. Carawan
Box 102
Chugiak, Alaska

7]

EXHIBIT V

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Regional Office
900 Hoge Building
Seattle, Washington 98104

April 29, 1971

Mr. James R. Carawan
Box 102
Chugiak, Alaska

Re: Tilney & Co.
S-1208

Dear Mr. Carawan:

With reference to your letter of April 12, 1971 to the receiver for Tilney & Co., a copy of which was directed to our office, please be advised that the Commission has been doing its utmost to have the court in charge of the receivership issue an order directing payment of customers' claims. Our New York office still reports that the court does not appear to be making much headway toward resolution of the matter.

That office has suggested that customers of Tilney & Co. might be able to expedite payment of their claims by writing directly to the court and to their senators and congressmen to let them know how the customers feel about the lack of progress in the receivership proceedings. The judge in this case is David N. Edelstein, United States District Judge, United States Court House, Foley Square, New York City, New York, and the case name and number is Securities and Exchange Commission v. Tilney, Civil Action No. 4676.

Sincerely yours,

JAMES E. NEWTON
REGIONAL ADMINISTRATOR

/S/ Lane B. Emory

By Lane B. Emory
Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

- against - :

TILNEY & COMPANY, :
FREDERICK TILNEY

Defendants. :

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AFFIDAVIT

IN OPPOSITION TO RECEIVER'S APPLICATION TO PUNISH FOR CONTEMPT

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

DOROTHY M. TILNEY, being duly sworn, says:

1. I am the individual defendant in this action. I submit this Affidavit in opposition to the Petition of counsel for the Receiver seeking to punish me and my husband, Frederick Tilney, for contempt.

2. In attempting to have the Court take the very grave step of punishing me for contempt, the Receiver's counsel in his Petition alleges only one specific act on my part. This was Mr. Benisch's allegation in pargraph 6 that I had obtained Dr. Mara's signature "in conjunction with payment of his claim by Mrs. Tilney". I paid Dr. Mara on a serial basis to clear the account, the last payment being in August, 1970.

Subsequent to that time, Mr. Tilney or I have made payments to Dr. Mara in the regular course of business in connection with his profession. Dr. Mara directed the preparation of the letter and the sentiments expressed therein are his own.

3. Numerous creditors have been in contact with me who have indicated their utter disgust in the manner this receivership has been handled and the lack of information regarding the receivership that has been distributed.

4. For the foregoing reasons, I respectfully request that the Receiver's Petition be in all respects denied.

/S/ Dorothy M. Tilney
Dorothy M. Tilney

Sworn to before me this
28th day of June, 1971

Notary Public

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
500 HOGE BUILDING
SEATTLE, WASHINGTON 98104

IN REPLYING PLEASE REFER TO S-1208

June 30, 1971

U. S. DISTRICT COURT
FILED
JUL 8 1971
S. D. OF N. Y.

Honorable David N. Edelstein
Judge U. S. District Court
Southern District of New York
United States Court House
Foley Square
New York City, New York

Re: Securities and Exchange Commission
v. Tilney & Co. 67 Civil 4676

Dear Judge Edelstein:

I learned that a letter written by a member of my staff has come to your attention and that you are disturbed by it. I have discussed its contents with its author and beg you to be assured that there was no intended implication that the Court was at all responsible for the length of time it is taking to wind up the instant matter. Indeed, the letter sought to inform a claimant that a receivership as complex and problem-ridden as is the Tilney matter is not easily wound up.

The suggestion that a letter be written to the Court was for the purpose of advising the claimant of a source of information which could provide an informed answer to an inquiry regarding progress of the receivership litigation. This was thought necessary since, based on the previous correspondence with the claimant, there was an apparent feeling that the information furnished by this office did not suffice.

Any critical overtones should be attributed solely to unfortunate draftmanship.

Sincerely,

James E. Newton
Administrator